ENERGY EMERGENCY PREPAREDNESS: INTERNATIONAL AND DOMESTIC ISSUES

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 2332

A BILL TO EXTEND THE EXPIRATION DATE OF SECTION 252
OF THE ENERGY POLICY AND CONSERVATION ACT

MAY 6, 1982

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CONTENTS

Page
S. 2332 14
Amendment No. 1352 15
Amendment No. 1353 16
Amendment No. 1354 18

STATEMENTS

Bergman, Dr. Elihu, executive director, Americans for Energy Independence, accompanied by Thomas Stern, Americans for Energy Independence 136
Carr, Hon. Ronald G., Deputy Assistant Attorney General, Antitrust Division, Department of Justice, accompained by Patrick, A. Mulloy, Senior Attorney, Energy Section, Antitrust Division 66
Forcier, Donald Z., Senior Group Director, Energy and Minerals Division, General Accounting Office, accompanied by Dr. William Kruvant, Energy and Minerals Division, Phillip Thomas, International Division, and Richard Springer, General Counsel's Office 102
Hormats, Hon. Robert D., Assistant Secretary of State for Economic and Business Affairs, Department of State, accompanied by E. Allan Wendt, Deputy Assistant Secretary for International Energy Policy 23
Jackson, Hon. Henry M., a U.S. Senator from the State of Washington 11
McClure, Hon. James A., a U.S. Senator from the State of Idaho 5
Thomas, Hon. Henry E., IV, Assistant Secretary of Energy for International Affairs, Department of Energy 38
Vaughan, Hon. William A., Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, Department of Energy, accompained by Richard D. Furiga, Deputy Assistant Secretary for Strategic Petroleum Reserves 53
Warner, Hon. John W., a U.S. Senator from the State of Virginia 1

APPENDIXES

APPENDIX I

International Energy Agency Agreement on Sub-Crisis Management 149

APPENDIX II

Testimony of Assistant Secretary of Energy William A. Vaughan on energy emergency preparedness before the Subcommittee on Interior and Related Agencies of the Appropriations Committee on March 31, 1982, and responses to certain questions for the record 153

APPENDIX III

Responses to additional Committee questions 443

ENERGY EMERGENCY PREPAREDNESS: INTERNATIONAL AND DOMESTIC ISSUES

THURSDAY, MAY 6, 1982

U.S. Senate,
Committee on Energy and Natural Resources,
Washington, D.C.

The committee met, pursuant to notice, at 10:12 a.m., in room 3110, Dirksen Office Building, Hon. James A. McClure, chairman, presiding.

Present: Senators McClure, Warner, Nickles, Bumpers, Melcher, and Bradley.

Also present: Charles A. Trabandt, chief counsel; Richard D. Grudy, professional staff member; E. David Doane, counsel; Elizabeth Moler, counsel for the minority; Benjamin S. Cooper, professional staff member for the minority; and James T. Bruce, counsel for the minority.

OPENING STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator **Warner**. My apologies for the delay. We were tied up in a special budget session.

Immediately following my statement, the record will reflect the statement by Chairman McClure and the ranking minority member, Senator Jackson.

Before we begin, I wish to state that I think this is a very important subject. I will be chairing for a while, but because the defense bill is on the floor, someone else will come and relieve me.

Today the Committee on Energy and Natural Resources will convene a hearing on S. 2332, bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

The hearing will include testimony on three printed amendments, to S. 2332 that have been submitted by Senator Jackson and Senator Durenberger.

Amendment No. 1352 by Senator Durenberger requires the President to prepare and send to the Congress a drawdown plan for the SPR.

Amendment No. 1353 by Senator Durenberger denies the availability of the IEA antitrust immunity to oil companies participating in "subcrisis management" activities of the IEA.

Amendment No. 1354 by Senator Jackson requires the President to submit to Congress, first, a memorandum of law on the nature and extent of his energy contingency authorities, and second, comprehensive contingency plans to carry out those authorities. It also requires the SPR to be filled at a minimum of 300,000 barrels per day until 500 million barrels are in storage and to amend existing law to facilitate the achievement of that fill rate through the leasing of interim private storage facilities.

In addition, it requires the President to submit a report to Congress on various aspects of an oil supply distribution including likely prices of petroleum products, effects on the market of unpreempted State and local laws, and the potential for recycling revenues.

The committee is seriously concerned about the U.S. energy emergency preparedness. The United States is now embarked on a policy of reliance on the marketplace for the allocation of energy supply shortages.

Consistent with this policy we understand the administration has initiated a series of new initiatives to deal with the domestic and international aspects of energy emergency preparedness.

This hearing is part of the committee's continuing inquiry into the status of our country's energy emergency preparedness. Today we are proceeding forward in our continuing effort to fashion a program that is fully acceptable to the administration, the Congress, and the American people.

[The prepared statements of Senators Warner, McClure, and Jackson, and the texts of S. 2332, and Amendments Nos. 1352, 1353, and 1354 follow:]

OPENING STATEMENT
SENATOR JOHN W. WARNER
S. 2332, A BILL THAT WOULD AMEND THE ENERGY POLICY AND
CONSERVATION ACT TO EXTEND THE EXPIRATION DATE
OF SECTION 252
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
THURSDAY, MAY 6, 1982 (10:00 A.M.)

GOOD MORNING. BEFORE WE BEGIN I WISH TO INSERT IN THE RECORD THE OPENING STATEMENT OF CHAIRMAN MCCLURE.

TODAY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES WILL CONVENE A HEARING ON S. 2332, A BILL TO EXTEND THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT. THE HEARING WILL INCLUDE TESTIMONY ON THREE PRINTED AMENDMENTS TO S. 2332 THAT HAVE BEEN SUBMITTED BY SENATOR JACKSON AND SENATOR DURENBERGER.

AMENDMENT NO. 1352 (BY SENATOR DURENBERGER) REQUIRES THE PRESIDENT TO PREPARE AND SEND TO THE CONGRESS (FOR CONGRESSIONAL REVIEW UNDER EXISTING LAW) A DRAWDOWN PLAN FOR THE SPR.

AMENDMENT NO 1353 (BY SENATOR DURENBERGER) DENIES THE AVAILABILITY OF THE IEA ANTITRUST IMMUNITY TO OIL COMPANIES PARTICIPATING IN "SUB-CRISIS MANAGEMENT" ACTIVITIES OF THE IEA.

AMENDMENT NO. 1354 (BY SENATOR JASCKSON) REQUIRES THE PRESIDENT TO SUBMIT TO CONGRESS (A) A MEMORANDUM OF LAW ON THE NATURE AND EXTENT OF HIS ENERGY CONTINGENCY AUTHORITIES, AND (B) COMPREHENSIVE CONTINGENCY PLANS TO CARRY OUT THOSE AUTHORITIES. IT ALSO REQUIRES THE SPR TO BE FILLED AT A MINIMUN OF 300,000 BARRELS PER DAY UNTIL 500 MILLION BARRELS ARE IN STORAGE AND TO AMEND EXISTING LAW TO FACILITATE THE ACHIEVEMENT OF THAT FILL RATE THROUGH THE LEASING OF INTERIM PRIVATE STORAGE FACILITIES. IN ADDITION, IT REQUIRES THE PRESIDENT TO SUBMIT A REPORT TO CONGRESS ON VARIOUS ASPECTS OF AN OIL SUPPLY DISRUPTION INCLUDING LIKELY PRICES OF PETROLEUM PRODUCTS, EFFECTS ON THE MARKET OF UNPREEMPTED STATE AND LOCAL LAWS, AND THE POTENTIAL FOR RECYCLING REVENUES.

(OVER)

THE COMMITTEE IS SERIOUSLY CONCERNED ABOUT THE UNITED STATES ENERGY EMERGENCY PREPAREDNESS. THE UNITED STATES IS NOW EMBARKED ON A POLICY OF RELIANCE ON THE MARKETPLACE FOR THE ALLOCATION OF ENERGY SUPPLY SHORTAGES.

CONSISTENT WITH THIS POLICY WE UNDERSTAND THE ADMINISTRATION HAS INITIATED A SERIES OF NEW INITIATIVES TO DEAL WITH THE DOMESTIC AND INTERNATIONAL ASPECTS OF ENERGY EMERGENCY PREPAREDNESS.

THIS HEARING IS PART OF THE COMMITTEE'S CONTINUING INQUIRY INTO THE STATUS OF OUR COUNTRY'S ENERGY EMERGENCY PREPAREDNESS. TODAY WE ARE PROCEEDING FORWARD IN OUR CONTINUING EFFORT TO FASHION A PROGRAM THAT IS FULLY ACCEPTABLE TO THE ADMINISTRATION, THE CONGRESS, AND THE AMERICAN PEOPLE.

OPENING STATEMENT
CHAIRMAN JAMES A. MC CLURE
S. 2332, A BILL THAT WOULD AMEND THE ENERGY POLICY AND
CONSERVATION ACT TO EXTEND THE EXPIRATION DATE
OF SECTION 252
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
THURSDAY, MAY 6, 1982 (10:00 A.M.)

AS WE BEGIN I WOULD LIKE TO MAKE SOME BRIEF REMARKS TO REFLECT THE GENERAL VIEWS OF THE CHAIR WITH REGARD TO THE GENERAL SUBJECT OF ENERGY EMERGENCY PREPAREDNESS. AS THE RECORD INDICATES THIS COMMITTEE HAS A LONG HISTORY OF DEEP INTEREST AND SERIOUS CONCERN ABOUT THE ENERGY EMERGENCY PREPAREDNESS OF THE UNITED STATES. THAT INTEREST AND CONCERN DATES BACK TO THE EARLY 1970'S WITH WHAT TURNED OUT TO BE A SERIES OF ENERGY EMERGENCIES BEGINNING WITH THE OAPEC EMBARGO OF 1973, THE NATURAL GAS SHORTAGE IN THE WINTER OF 1976-1977, THE COAL STRIKE IN THE WINTER OF 1977-1978, THE IMPACT OF THE IRANIAN REVOLUTION ON THE WORLD OIL MARKETS IN 1978 AND 1979, AND THE IRAN-IRAQ WAR IN THE FALL OF 1980. ALL OF THOSE EXPERIENCES HAVE SERVED TO SENSITIZE THE MEMBERS OF THIS COMMITTEE TO THE NEED FOR PRIOR PREPARATION AND PLANNING TO PROVIDE A QUICK AND PREDICTABLE RESPONSE TO THE VARYING EMERGENCIES FACING THE UNITED STATES.

TODAY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES WILL CONVENE A HEARING ON S. 2332, A BILL TO EXTEND THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT. THE HEARING WILL INCLUDE TESTIMONY ON THREE PRINTED AMENDMENTS TO S. 2332 THAT HAVE BEEN SUBMITTED BY SENATOR JACKSON AND SENATOR DURENBERGER. THE COMMITTEE ALSO INTENDS TO EXAMINE A NUMBER OF INTERNATIONAL AND DOMESTIC ISSUES RELATED TO OUR NATION'S ENERGY EMERGENCY PREPAREDNESS.

On the international side, the Committee will receive testimony on the International Energy Program and the related agreements and commitments, including the December 1981 agreement on "sub-trigger" supply shortages; United States participation in that program; and the propriety of extending the IEA antitrust exemption in section 252 of EPCA unitl July 1, 1983.

The Congress approved an extension of the IEA antitrust exemption until July 1, 1983, as part of S. 1503, the Standby Petroleum Allocation Act of 1982. That bill represented the Congress' best judgement concerning the extent of standby allocation authority and the types of programs that the President should have available in the event of a serious emergency. After the veto of S. 1503 was sustained, the Congress thus quickly responded by extending the antitrust exemption in order to avoid expiration of the IEA antitrust exemption. Because of procedural difficulties we were able to extend Section 252 for only two months. It will expire on June 1, unless we act again and act quickly.

The Committee's consideration of S. 2332 and the printed amendments thereto require the Committee to inquire into the status of our energy emergency preparedness. Such an inquiry is particularly appropriate now that we are dependent on the marketplace, and, as the President noted, we are dependent on the general powers that can be used by the President to protect national security, meet our treaty obligations and assure essential public health and safety functions.

Now that we are embarked on this road, we certainly want to proceed in a constructive spirit and with the full cooperation of the Administration. At the same time, we must satisfy the Committee's serious concerns about the energy

EMERGENCY PREPAREDNESS PROGRAM. WE NEED TO OBTAIN A THOROUGH UNDERSTANDING OF OUR OBLIGATIONS UNDER THE INTERNATIONAL ENERGY PROGRAM, IN BOTH "CRISIS" AND "SUB-CRISIS" SITUATIONS. WE NEED TO KNOW THE SPECIFIC DETAILS ABOUT HOW THE UNITED STATES WILL RESPOND DOMESTICALLY IF A SEVERE SHORTAGE ACTIVATES THE INTERNATIONAL ENERGY PROGRAM. AND, WE ALSO NEED TO KNOW HOW THIS COUNTRY WILL DEAL WITH LESS SEVERE SHORTAGES. THE COMMITTEE INTENDS TO VIGOROUSLY PURSUE THESE INQUIRIES IN A SPIRIT OF FULL COOPERATION WITH THE ADMINISTRATION. BUT, BE ASSURED, WE ALSO INTEND TO DILIGENTLY PURSUE THIS INQUIRY .

OUR INQUIRY WILL FOCUS ON HOW RECENT EVENTS HAVE AFFECTED THIS NATION'S PREPAREDNESS FOR OIL EMERGENCIES. THE 1974 AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM PROVIDED A PLAN FOR THE SHARING OF ENERGY IMPORTS AMONG MAJOR OIL CONSUMING NATIONS IN THE EVENT OF A SEVERE PETROLEUM SUPPLY SHORTAGE. PROVISION WAS MADE FOR RELIANCE ON PETROLEUM RESERVES AS WELL AS THE ALLOCATION OF AVAILABLE CRUDE OIL AND PRODUCTS. THAT AUTHORITY STILL EXISTS IN THE EVENT THE SEVEN PERCENT TRIGGER IS ACTIVATED.

ON DECEMBER 10, 1981, THE GOVERNING BOARD OF THE INTERNATIONAL ENERGY AGENCY, WHICH INCLUDES THE UNITED STATES, ENTERED INTO A DECISION WHICH WOULD SERVE AS THE BASIS FOR FUTURE CONSULTATIONS IN THE EVENT OF SUB-TRIGGER SUPPLY DISRUPTIONS. THE DECEMBER 1981 DECISION STATES THAT ANY ACTIONS TAKEN IN RESPONSE TO FUTURE SUB-TRIGGER DISRUPTIONS MUST BE CONSISTENT WITH EACH COUNTRY'S NATIONAL LAWS AND WITH THE 1974 AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM. AT THE TIME THE DECISION WAS MADE THE UNITED STATES EXPRESSED ITS UNDERSTANDING THAT THE AGREEMENT DOES NOT COMMIT IEA COUNTRIES IN ADVANCE TO ANY SPECIFIC ACTIONS THEY MIGHT TAKE IN SUB-CRISIS CIRCUMSTANCES. NEVERTHELESS, QUESTIONS ARE RAISED BY THAT DECISION; THE QUESTIONS INCLUDE:

-- WHAT ARE THE ANTITRUST IMPLICATIONS AND HOW DOES THE ANTITRUST DEFENSE IN SECTION 252 APPLY TO SUB-TRIGGER ACTIONS;

- -- What types of actions are envisioned;
- -- Would they be consistent with United States law; and
- -- To what extent does the decision potentially place the United States in the position where the International Energy Agency could legally, or effectively, compel the United States to participate in a sub-trigger response.

On the domestic front, it is now the policy of our country to rely on the marketplace for the allocation of energy supply shortages. The most recent public statement of the Administration's current energy preparedness policies and programs was by Assistant Secretary Vaughan on March 31st in his testimony before the Interior Appropriations Subcommittee. That statement described a series of new initiatives now under way to deal with the domestic and international aspects of energy emergency preparedness. Among the initiatives mentioned were:

- -- New initiatives to coordinate Federal energy emergency policies with the 50 states in the absence of statutory preemption;
- -- Reliance on the Executive Manpower Reserve;
- -- Use of the Defense Production Act for other than defense related activities;
- -- Development of alternative drawdown approaches for the Strategic Petroleum Reserve;
- -- Establishment of a National Emergency (oil) sharing Organization to support IEA activities;
- -- Analysis of import quotas and tariffs that can be implemented to reduce or eliminate IEA allocation obligations; and
- -- Development of a National Oil Board to support our NATO Commitment.

I believe it is fair to say that the events that have taken place over the past two months make it absolutely essential for this Committee and the Congress to inquire in a constructive and most probative way into the Administration's new initiatives. Several of these initiatives may be very promising, and they should be explored fully in a joint effort by the Congress and the Administration. These proposals must be closely examined on their individual merits and most importantly, as an integral part of our overall emergency preparedness planning for both domestic and international emergencies. However other initiatives, such as revenue recycling, have been previously considered by this Committee and the Senate and were rejected overwhelmingly.

With respect to these new initiatives by the Administration:

-- We must identify with certainty those oil company activities that it is proposed to provide protection from antitrust actions, and we must determine whether such protection extends, in any way, to IEA sub-crisis management activities;

-- We must know with certainty when and how private individuals are going to participate in the Federal Government's management of an energy emergency, under what direct or delegated Federal authority, and with what conflict of interest immunity;

-- We must know if in fact representatives of the oil and gas industries acting under a Federal mantle, are going to manage energy emergencies;

-- We need to know how, if at all, how the industrial sector will participate in the formulation of these new policies and programs; and,

-- We must know if the Administration intends to request new or expanded statutory authority for oil allocation beyond direct defense needs to deal with emergencies short of a national defense emergency.

WE ARE ALL TOO QUICK TO FORGET HOW POTENTIALLY UNSTABLE WORLD PETROLEUM SUPPLIES ARE AND HOW QUICKLY CONSUMERS REACT WHEN EVEN THREATENED WITH A SHORTAGE. THE UNPREDICTABILITY OF THE INTERNATIONAL ENERGY SITUATION AND ITS CRITICAL SIGNIFICANCE TO THE UNITED STATES AND OUR ALLIES WAS COGENTLY REVIEWED TWO WEEKS AGO BY EXPERT WITNESSES BEFORE THIS COMMITTEE. THIS HEARING IS BUT ONE MORE CHAPTER ON A CONTINUING AND THOROUGH INQUIRY BY THIS COMMITTEE AND THE CONGRESS ON THE ISSUE OF ENERGY EMERGENCY PREPAREDNESS. OVER THE PAST 12 MONTHS THE CONGRESS EXHAUSTED THE LEGISLATIVE AND CONSTITUTIONAL PROCESS IN AN ATTEMPT TO ENACT S. 1503. WE GAVE THE SUBJECT FULL AND COMPLETE CONSIDERATION. TODAY WE ARE PROCEEDING FORWARD IN AN EFFORT TO FASHION AN ALTERNATIVE WHICH WILL BE FULLY ACCEPTABLE TO THE ADMINISTRATION, THE CONGRESS, AND THE NATION.

I KNOW THAT THIS SENATOR, SENATOR JACKSON, AND OTHER MEMBERS OF THIS COMMITTEE ARE DEDICATED COMPLETELY TO THAT OBJECTIVE. OVER THE LAST THREE WEEKS OUR JOINT STAFF HAS BEEN BRIEFED BY THE STATE DEPARTMENT, THE DEPARTMENT OF ENERGY, AND THE FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION. THE STAFF HAS REVIEWED HUNDREDS OF PAGES OF BACKGROUND MATERIALS IN PREPARATION FOR OUR HEARING TODAY AND OUR ACTION ON THIS MEASURE. I WISH TO THANK OUR WITNESSES AND THEIR COLLEAGUES FOR THEIR COOPERATION AND ASSISTANCE IN THIS EFFORT.

OPENING STATEMENT, SENATOR HENRY M. JACKSON
HEARING ON S. 2332, TO EXTEND THE IEA ANTI-TRUST IMMUNITY
May 6, 1982

MR. CHAIRMAN, On May 1, 1982, President Reagan opened the World's Fair at Knoxville. Tennessee, with a major energy policy address, an appropriate topic given that the theme of the World's Fair is, "Energy Turns the World". In this address President Reagan succinctly stated what I believe is the reason we are holding this hearing today:

> "Here in America, in this Administration, our national energy policy dictates that one of Government's chief energy roles is to guard against sudden interruptions of energy supplies."

The President went on to say,

> "Our Administration is determined to press forward for real solutions.... We will ensure that our people and our economy are never again held hostage by the whim of any country or cartel."

I'm sure all of the Members of this Committee would agree with President Reagan that energy contingency planning is the business of good government. What are "the real solutions" that this Administration is pursuing? President Reagan listed three in his address.

First, he emphasized the importance of the Strategic Petroleum Reserve. I could not agree more. However, as this Committee has heard in several prior hearings, the Administration's proposals for the SPR amount to a dramatic slowdown of the program. My amendment (No. 1354) to S. 2332 would require the Administration to continue the fill rate they achieved in FY 1981 -- nearly 300,000 b/d.

The second "real" solution the President offered was greater energy production. However, there are obvious limitations here to what we can do. The latest projections by the Energy Information Administration show that oil imports will be at least 5 million barrels per day from 1985 through 1995 (midprice case).

Third and finally, President Reagan offered the "ultimate" solution in his address at Knoxville:

> "But if America is to provide for her energy security, if we are to free ourselves from foreign pressure, we must press toward the ultimate solution to our energy problems: the decontrol of all our energy sources, including natural gas, and this we shall do."

I hope in this hearing that the Administration witnesses can offer us some additional "real solutions" to those the President offers. I am very much concerned that as we examine in detail this Administration's energy contingency planning we will only discover a policy of "getting Government out' of our way", as the President put it.

Energy contingency planning is a part of national security planning. When the next energy supply disruption hits, the American people will be outraged (and properly so) if they are told that their Government's contribution to responding to the crisis is to get out of the way.

Certainly, when the Senate sustained the President's veto of S. 1503 it was done amid assurances from the Administration that this legislation was unnecessary because the President had adequate authority and contingency plans to address the crisis. This hearing will focus on the adequacy of that authority and planning.

II

97TH CONGRESS
2D SESSION

S. 2332

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, FEBRUARY 22), 1982

Mr. McCLURE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "April 1, 1982" and inserting in lieu thereof "July 1, 1983".

○

III

AMENDMENT NO. 1352

Purpose: To require submission to the Congress of a drawdown plan for the strategic petroleum reserve.

IN THE SENATE OF THE UNITED STATES—97th Cong., 2d Sess.

S. 2332

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

April 13, 1982

Referred to the Committee on Energy and Natural Resources and ordered to be printed

AMENDMENT intended to be proposed by Mr. DURENBERGER

Viz: On page 1, after line 5, insert the following new section:

STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN

SEC. 2. On or before September 30, 1982, the President shall transmit to the Congress a drawdown plan for the strategic petroleum reserve consistent with the requirements of section 154 of the Energy Policy and Conservation Act. Congressional review of such drawdown plan shall be in accordance with the provisions of section 159 of the Energy Policy and Conservation Act.

AMENDMENT NO. 1353

Purpose: To limit the application of section 252 of the Energy Policy and Conservation Act.

IN THE SENATE OF THE UNITED STATES—97th Cong., 2d Sess.

S. 2332

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

April 13, 1982

Referred to the Committee on Energy and Natural Resources and ordered to be printed

AMENDMENT intended to be proposed by Mr. DURENBERGER

Viz: On page 1, after line 5, insert the following new section:

LIMITATION ON CERTAIN INTERNATIONAL ENERGY PROGRAM ACTIVITIES

SEC. 3. Add at the end of section 252 of the Energy Policy and Conservation Act the following new subsection:

"(m)(1) The authority granted by this section shall not be effective for the purpose of certain international energy program activities pursuant to the December 10, 1981, International Energy Agency agreement entitled 'Decision on Preparation for Future Supply Disruptions' concerning disruptions in oil supply which do not reach the 7-percent level required to trigger the emergency allocation system.

"(2) For the purpose of this subsection, such activities mean—

"(A) any activation of questionnaires A and B, connected with procedures established for the emergency allocation program; and

"(B) the development and implementation of measures to supplement the market forces,

to deal with disruptions in oil supply which do not reach the 7-percent level required to trigger the emergency allocation system.".

AMENDMENT NO. 1354

Purpose: To amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, and for other purposes.

IN THE SENATE OF THE UNITED STATES—97th Cong., 2d Sess.

S. 2332

To extend the expiration date of section 252 of the Energy Policy and Conservation Act.

April 14 (legislative day, April 13), 1982

Referred to the Committee on Energy and Natural Resources and ordered to be printed

AMENDMENT intended to be proposed by Mr. JACKSON

Viz: Strike everything after the enacting clause and insert the following:

EXTENSION OF CERTAIN INTERNATIONAL ENERGY PROGRAM AUTHORITIES

SECTION 1. Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "June 1, 1982" and inserting in lieu thereof "July 1, 1983".

CONTINGENCY PLANNING

SEC. 2. Title II of the Energy Policy and Conservation Act, relating to standby energy authorities, is amended by adding at the end thereof the following new part:

“PART C—REPORT TO CONGRESS ON PETROLEUM SUPPLY

“DISRUPTION AUTHORITIES

“SEC. 271. The President shall submit to the Congress no later than September 2, 1982, a report containing—

“(a) a memorandum of law describing the nature and extent of the authorities available to the President under existing law to address a substantial reduction in the amount of petroleum products available to the United States, and

“(b) comprehensive contingency plans (including alternative options) by which the President would implement the authorities described under subsection (a).”.

STRATEGIC PETROLEUM RESERVE AMENDMENTS

SEC. 3. (a) Section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended to read as follows:

“(c)(1) The President shall immediately undertake, and thereafter continue (subject to paragraph (2)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in permanent or interim storage facilities in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day.

"(2) The requirements in paragraph (1) shall cease to apply when the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 500,000,000 barrels.".

(b) The effective date of subsection (a) shall be July 1, 1982.

(c) Section 159(f) of the Energy Policy and Conservation Act (42 U.S.C. 6240(f)) is amended by deleting the word "and" at the end of paragraph (3), by inserting a ";" in lieu of the "," at the end of paragraph (4), and by inserting a new paragraph (5) as follows:

"(5) the storage of crude oil in interim storage facilities,".

(d) Section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247) is amended by adding at the end thereof the following:

"(e) Except as provided in paragraph (2), nothing in this part shall be construed—

"(1)(A) to limit the account from being used to meet expenses related to interim facilities for the storage of crude oil for the Strategic Petroleum Reserve,

"(B) to require the preparation of a proposed amendment to the Strategic Petroleum Reserve Plan prior to the storage of crude oil in interim storage facilities, or

"(2) that the use of the account in the manner described in subparagraph (1)(A) in any fiscal year shall not exceed 10 percent of the total amounts obligated from such account in any such fiscal year.

"(f) No action related to the storage of crude oil in existing facilities for interim storage in the Strategic Petroleum Reserve shall be deemed to be 'a major Federal action significantly affecting the quality of the human environment' within the meaning of that term as it is used in section 102(2)(C) of the National Environmental Policy Act of 1969.

"(g) Crude oil stored in interim storage facilities pursuant to section 160(c)(1) shall be considered to be in storage in the Strategic Petroleum Reserve.".

IMPACT STUDY

SEC. 4. (a) The President shall analyze the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during a severe oil supply shortage. Such analysis shall—

(1) examine the equity and efficiency of such reliance,

(2) distinguish between the impacts of such reliance on various categories of business (including small business) and on households of different income levels,

(3) specify the nature and administration of monetary and fiscal policies that would be followed including

emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs, and

(4) describe the likely impact on the distribution of petroleum products of State and local laws and regulations (including emergency authorities) affecting the price or allocation of petroleum.

Projections must be made of the effect of the disruption on the price of motor gasoline, home heating oil and diesel fuel and on Federal tax revenues, Federal royalty receipts and State and local tax revenues.

(b) Within one year after the date of the enactment of this section, the President shall submit a full and detailed report to the Congress containing the analysis required by subsection (a) along with such recommendations as the President deems appropriate.

CONTINUATION OF PETROLEUM PRODUCT INFORMATION COLLECTION

SEC. 5. Part A of title V of the Energy Policy and Conservation Act (42 U.S.C. 6381 et seq.) is amended by adding at the end thereof the following new section:

"PETROLEUM PRODUCT INFORMATION

"SEC. 507. The President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply, and distribution of petroleum products at the wholesale and retail levels, on a State-by-State basis. Such information shall be substantially of the same type as was collected during September 1981 by the Energy Information Administration in connection with the Emergency Petroleum Allocation Act of 1973.".

Senator **Warner**. I now call on my distinguished colleague from Montana. Do you have some opening comments?

Senator **Melcher**. No, Mr. Chairman, I have no opening comments.

Senator **Warner**. We request that the witnesses give an abbreviation of their statements. The statements themselves will be put in the record in their entirety.

We will begin with Hon. Robert D. Hormats, Secretary for Economic and Business Affairs, the Department of State.

STATEMENT OF HON. ROBERT D. HORMATS, ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS, DEPARTMENT OF STATE, ACCOMPANIED BY E. ALLAN WENDT, DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL ENERGY POLICY

Mr. **Hormats**. Thank you, Mr. Chairman. It is a pleasure to appear again before your committee today to speak in support of legislation to sustain the active role of the United States in the International Energy Agency.

We very much appreciate the continuing efforts of you and your committee to continue this role, and most recently your introduction of S. 2332 to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

The case for U.S. participation in the IEA, and thus for extension of EPCA 252, is in our view just as compelling today as it was when it was extended last month and last September and a year ago.

The long-term threat of serious harm to the economies of the United States and its allies from a world supply interruption has not abated. Despite a drop in prices, the threat of a disruption is a real one which we can ignore only at our peril.

As business activity in the United States and abroad picks up, so to some extent will demand for oil. The reduction in private oil stocks in response to high interest rates and falling consumption, 130 million barrels since the beginning of the year, is also likely to end soon—although just how soon, of course, remains a matter of disagreement among forecasters—and will result in an increase in demand for crude oil.

An end to the Iran-Iraq war would mean that oil exports from these two countries would increase and be absorbed by consuming countries, and the percentage of world oil flowing out of a relatively small, volatile, and vulnerable region of the Middle East would once again loom large.

On the other hand, a heating up of the war could further reduce available supply.

In short, we must not allow short-term market developments to lull us into a false sense of security about supplies. We are becoming concerned that oil companies may be drawing their stocks down too far. The better case scenarios may look more realistic to us today than the worse case ones, but we cannot neglect the latter in our emergency preparedness planning. It takes a long time to construct and fill a strategic petroleum reserve. The same is true of programs for cooperation with our allies in responding to oil supply crises. Such programs require time and patience to negotiate and develop. It would be short-sighted to neglect them now only to have to resuscitate them next month or next year.

As you know, Mr. Chairman, the central theme of U.S. international energy policy is the need to reduce the extent to which an interruption of imports of oil imposes economic costs and threatens the security and the welfare of the American people.

This means that our policy must address a variety of external interests and problems affecting our energy security. And, as we have emphasized, U.S. energy security is intertwined with that of the other industrial countries in Western Europe and around the Pacific rim. Their vulnerability, and the fact that it can be exploited by oil exporters for political purposes, make our energy cooperation with them part of our overall effort to strengthen western unity.

It was consideration of factors such as these that led the U.S. Government in 1974 to take the lead in the creation of the International Energy Agency as the focal point for energy cooperation with our western friends and allies, and to stress in particular cooperation in ensuring emergency preparedness.

Successive administrations have made active participation in the IEA a central element of their international energy policy.

We have created in the IEA a system for responding to severe oil supply crises. This system places primary emphasis on actions by individual countries in supply crises to achieve balance between oil demand and supply in their own economies.

It also includes a mutual commitment by member countries to share oil among themselves where a selective embargo or a breakdown in the normal operation of the market threatens one or more of them with a disproportionately large shortfall in oil supplies.

In this process the cooperation of the oil companies is an essential part of our overall policy. To participate in a cooperative system of this kind, U.S. companies need antitrust protection. EPCA 252 provides authority for extending an antitrust defense to companies participating in the IEA system.

As noted recently by President Reagan, "a coordinated response to any international oil supply disruption through the IEA requires cooperation by private American oil companies in ways that are not possible absent [the statutory authorization contained in EPCA 252]."

Extension of EPCA 252 will permit us to continue our reliance on the resources, know-how, and efficiency of commercial enterprises to manage, under government supervision, any oil movements which are required. We therefore strongly recommend enactment of S. 2332.

That being said, I would urge one small change to the content of S. 2332. As introduced, S. 2332 provides for extension of EPCA 252 to July 1, 1983. As you know, Mr. Chairman, the administration has supported extension of this statute to June 30, 1985, the date on which expire the other IEA-related sections of the Energy Policy and Conservation Act.

Of late, our IEA partners have voiced growing concern that our failure to provide a stable, long-term statutory mandate for oil company participation in the IEA indicates a diminution of U.S. Government support for that organization. A longer extension would allay those concerns.

Before concluding, I would address myself to the several amendments which have been proposed by Senators Jackson and Durenberger. I would defer to my colleagues from the Energy Department as to the independent merits of these proposed amendments.

However, I believe that it would be extremely unwise to attach these amendments to the legislation extending EPCA 252. With one exception, they do not relate to the IEA.

Moreover, as previous extensions have demonstrated, there exists strong agreement in the Administration and in the Congress as to the benefits of continued active participation in the IEA.

In our view, it is not in the national interest to allow legislation preserving that participation to become entangled in a debate over aspects of domestic energy policy.

The proposed amendment that does deal with IEA activities, amendment 1353 submitted by Senator Durenberger, provides that EPCA 252 authority shall not be effective with respect to IEA actions under the decision on preparation for future supply disruptions adopted last December by the IEA Governing Board.

This decision serves to clarify the meaning of the agreement on an international energy program in specifying the response of the IEA to future interruptions in oil supply which are too small to justify activation of the IEA emergency scheme, in shorthand parlance, "subtrigger disruptions."

We are concerned about this amendment for three reasons, which I have spelled out in my testimony, and which I won't deal with in detail.

First, if we understand correctly the intent of its drafters, the amendment is unnecessary.

Second, enactment of this or a similar provision would be interpreted by our IEA partners as a unilateral withdrawal by the United States from participation in the subtrigger decision and, consequently, as a refusal even to discuss in the IEA energy matters which are of major importance to a number of our IEA partners.

Finally, enactment of section (m)(2)(A) to EPCA 252 as proposed in the amendment would reduce the scope of the authority currently provided by EPCA 252 in a way that would make it difficult for the United States to comply fully with its commitments under the IEP.

For these reasons we urge the Congress to exercise restraint in attempting to qualify to an even greater extent U.S. support for the IEA subtrigger decision. This decision was the product of long negotiation with IEA governments whose attitude toward the operation of the marketplace and the role of government are quite different from our own.

We believe that we were successful in achieving a result which in no way compromises the U.S. strategy for responding to oil crises, but which preserves good will and cooperation among the participants in the IEA.

Enactment of an amendment of the kind proposed would elicit a strong negative reaction from our IEA partners and could cause the collapse of the carefully constructed consensus we have used to close this political-level discussion of subtrigger crisis management in the IEA.

At a time of instability in many areas of the world, and unpredictability in oil producing areas, we need to maintain confidence in our commitments to cooperate with our allies and friends on energy issues. I urge the Congress to avoid shaking that confidence.

In conclusion, Mr. Chairman, I would only reiterate the importance we attach to extension of EPCA 252. It is important to our national interest that we continue to participate fully in the IEA. We need EPCA 252 to sustain that role.

I would be pleased, of course, to answer your questions. Thank you.

[The prepared statement of Mr. Hormats follows:]

U.S. PARTICIPATION IN THE INTERNATIONAL ENERGY AGENCY

STATEMENT OF
ROBERT D. HORMATS
ASSISTANT SECRETARY OF STATE
FOR ECONOMIC AND BUSINESS AFFAIRS

BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

MAY 6, 1982

MR. CHAIRMAN,

IT IS A PLEASURE TO APPEAR BEFORE YOUR COMMITTEE TODAY TO SPEAK IN SUPPORT OF LEGISLATION TO SUSTAIN THE ACTIVE ROLE OF THE UNITED STATES IN THE INTERNATIONAL ENERGY AGENCY (IEA). WE APPRECIATE THE CONTINUING EFFORTS OF YOU AND YOUR COMMITTEE TO CONTINUE THIS ROLE, AND MOST RECENTLY YOUR INTRODUCTION OF S.2332 TO EXTEND THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT.

THE CASE FOR U.S. PARTICIPATION IN THE IEA, AND THUS FOR EXTENSION OF EPCA 252, IS IN OUR VIEW JUST AS COMPELLING TODAY AS IT WAS WHEN YOU EXTENDED IT LAST MONTH, AND LAST SEPTEMBER, AND A YEAR AGO.

THE CONTINUING THREAT OF A SERIOUS OIL SUPPLY DISRUPTION

THE LONG-TERM THREAT OF SERIOUS HARM TO THE ECONOMIES OF THE UNITED STATES AND ITS ALLIES FROM A WORLD OIL SUPPLY INTERRUPTION HAS NOT ABATED. DESPITE A DROP IN PRICES, THE THREAT OF A DISRUPTION IS A REAL ONE WHICH WE CAN IGNORE ONLY AT OUR PERIL.

AS OIL CONSUMERS, WE CAN WELCOME THE GLUT IN THE WORLD OIL MARKET AND THE RECENT FALL IN OIL PRICES. THEY WILL REDUCE OUR CONSUMER PRICE INDEX AND OUR RESOURCE TRANSFERS ABROAD, AND BOOST GROWTH HERE AND IN MANY OTHER NATIONS. WE CAN ALSO FIND REASSURANCE IN THE CHANGING CHARACTER OF THE WORLD OIL MARKET. NEW PRODUCERS LIKE MEXICO AND GREAT BRITAIN HAVE ADDED AN IMPORTANT ELEMENT OF DIVERSITY TO OUR SUPPLIES OF OIL. OPEC PRODUCTION HAS FALLEN BELOW 17 MILLION BARRELS PER DAY. NO COUNTRY OTHER THAN SAUDI ARABIA IS CURRENTLY EXPORTING MORE THAN 2 MILLION BARRELS OF OIL PER DAY.

HOWEVER, AS BUSINESS ACTIVITY IN THE UNITED STATES AND ABROAD PICKS UP, SO TO SOME EXTENT WILL DEMAND FOR OIL. THE REDUCTION IN PRIVATE OIL STOCKS IN RESPONSE TO HIGH INTEREST RATES AND FALLING CONSUMPTION (130 MILLION BARRELS SINCE THE BEGINNING OF THE YEAR) IS ALSO LIKELY TO END SOON (ALTHOUGH JUST HOW SOON REMAINS A MATTER OF DISAGREEMENT AMONG FORECASTERS) AND WILL RESULT IN AN INCREASE IN DEMAND FOR CRUDE OIL. AN END TO THE IRAN-IRAQ WAR WOULD MEAN THAT OIL EXPORTS FROM THOSE TWO COUNTRIES WOULD INCREASE AND BE ABSORBED BY CONSUMING COUNTRIES, AND THE PERCENTAGE OF WORLD OIL FLOWING OUT OF A RELATIVELY SMALL, VOLATILE, AND VULNERABLE REGION OF THE MIDDLE EAST WOULD ONCE AGAIN LOOM LARGE. ON THE OTHER HAND, A HEATING UP OF THE WAR COULD FURTHER REDUCE AVAILABLE SUPPLY.

THERE IS NO CERTAINTY, MOREOVER, ABOUT OIL DEMAND IN THE MEDIUM TO LONG TERM. OUR NATIONAL ENERGY POLICY PLAN LAST SUMMER PROJECTED THAT U.S. OIL IMPORTS WERE HEADED DOWNWARDS AND THAT IMPORTS WOULD BE NO MORE THAN 6-7 MILLION BARRELS PER DAY IN 1985 AND PERHAPS 4-5 MILLION BARRELS PER DAY IN 1990. WE MADE CLEAR, HOWEVER, THAT THESE PROJECTIONS HAD A LARGE MARGIN OF UNCERTAINTY ASSOCIATED WITH THEM. IN THE EVENT, OIL IMPORTS HAVE FALLEN VERY RAPIDLY IN THE LAST NINE MONTHS, AND IT IS LIKELY THAT AN ESTIMATE PREPARED TODAY WOULD PROJECT A LOWER LEVEL OF IMPORTS IN 1990. ON THE OTHER HAND, NO ONE KNOWS YET WHAT EFFECT THE RECENT FALL IN OIL PRICES WILL HAVE ON LONGER-TERM DEMAND. IN ANY CASE, THE UNITED STATES MUST CONCERN ITSELF WITH THE REDUCTION NOT ONLY OF ITS OWN VULNERABILITY TO OIL IMPORT DISRUPTIONS, BUT ALSO OF THAT OF ITS FRIENDS AND ALLIES.

IN SUM, WE MUST NOT ALLOW SHORT-TERM MARKET DEVELOPMENTS TO LULL US INTO A FALSE SENSE OF SECURITY ABOUT SUPPLIES. WE ARE BECOMING CONCERNED THAT OIL COMPANIES MAY BE DRAWING THEIR OIL STOCKS DOWN TOO FAR. THE BETTER CASE SCENARIOS MAY LOOK MORE REALISTIC TO US TODAY THAN THE WORSE CASE ONES, BUT WE CANNOT NEGLECT THE LATTER IN OUR EMERGENCY PREPAREDNESS PLANNING. IT TAKES A LONG TIME TO CONSTRUCT AND FILL A STRATEGIC PETROLEUM RESERVE. THE SAME IS TRUE OF PROGRAMS FOR COOPERATION WITH OUR ALLIES IN RESPONDING

TO OIL SUPPLY CRISES. SUCH PROGRAMS REQUIRE TIME AND PATIENCE TO NEGOTIATE AND DEVELOP. IT WOULD BE SHORT-SIGHTED TO NEGLECT THEM NOW ONLY TO HAVE TO RESUSCITATE THEM NEXT MONTH OR NEXT YEAR.

IMPORTANCE OF EXTENDING EPCA 252

AS YOU KNOW, MR. CHAIRMAN, THE CENTRAL THEME OF U.S. INTERNATIONAL ENERGY POLICY IS THE NEED TO REDUCE THE EXTENT TO WHICH AN INTERRUPTION OF IMPORTS OF OIL IMPOSES ECONOMIC COSTS AND THREATENS THE SECURITY AND WELFARE OF THE AMERICAN PEOPLE. THIS MEANS THAT OUR POLICY MUST ADDRESS A VARIETY OF EXTERNAL INTERESTS AND PROBLEMS AFFECTING OUR ENERGY SECURITY. AND, AS WE HAVE EMPHASIZED, U.S. ENERGY SECURITY IS INTERTWINED WITH THAT OF THE OTHER INDUSTRIAL COUNTRIES IN WESTERN EUROPE AND AROUND THE PACIFIC RIM. THEIR VULNERABILITY, AND THE FACT THAT IT CAN BE EXPLOITED BY OIL EXPORTERS FOR POLITICAL PURPOSES, MAKE OUR ENERGY COOPERATION WITH THEM PART OF OUR OVERALL EFFORT TO STRENGTHEN WESTERN UNITY.

IT WAS CONSIDERATION OF FACTORS SUCH AS THESE THAT LED THE U.S. GOVERNMENT IN 1974 TO TAKE THE LEAD IN THE CREATION OF THE INTERNATIONAL ENERGY AGENCY AS THE FOCAL POINT FOR ENERGY COOPERATION WITH OUR WESTERN FRIENDS AND ALLIES, AND TO STRESS IN PARTICULAR COOPERATION IN ENSURING EMERGENCY PREPAREDNESS. SUCCESSIVE ADMINISTRATIONS HAVE MADE ACTIVE PARTICIPATION IN THE IEA A CENTRAL ELEMENT OF THEIR INTERNATIONAL ENERGY POLICIES.

WE HAVE CREATED IN THE IEA A SYSTEM FOR RESPONDING TO SEVERE OIL SUPPLY CRISES. THIS SYSTEM PLACES PRIMARY EMPHASIS ON ACTIONS BY INDIVIDUAL COUNTRIES IN SUPPLY CRISES TO ACHIEVE BALANCE BETWEEN OIL DEMAND AND SUPPLY IN THEIR OWN ECONOMIES. IT ALSO INCLUDES A MUTUAL COMMITMENT BY MEMBER COUNTRIES TO SHARE OIL AMONG THEMSELVES WHERE A SELECTIVE EMBARGO OR A BREAKDOWN IN THE NORMAL OPERATION OF THE MARKET THREATENS ONE OR MORE OF THEM WITH A DISPROPORTIONATELY LARGE SHORTFALL IN OIL SUPPLIES.

IT IS WITH REGARD TO THIS LATTER COMMITMENT THAT EPCA 252 IS IMPORTANT. THE EMBODIMENT OF THE COMMITMENT TO SHARE OIL IS THE IEA EMERGENCY ALLOCATION SYSTEM. IN PRINCIPLE, WE COULD PLAN ON HAVING THE U.S. GOVERNMENT MANAGE U.S. PARTICIPATION IN INTERNATIONAL OIL ALLOCATION IN FULFILLMENT OF IEA COMMITMENTS. HOWEVER, WE AND MOST OF OUR IEA PARTNERS RECOGNIZED AT THE VERY OUTSET THAT GOVERNMENTS DO NOT MANAGE COMMERCIAL OPERATIONS VERY WELL. WE THEREFORE WORKED TO INVOLVE IN THE OPERATION OF THE ALLOCATION SYSTEM THE COMPANIES WHO NORMALLY CONDUCT INTERNATIONAL OIL TRADE. WHILE WE COULD HAVE REQUIRED THEM TO PARTICIPATE IN THE SYSTEM, WE CONCLUDED THAT WE WOULD MAXIMIZE THE EFFICIENCY OF THE SYSTEM IF WE MADE IT POSSIBLE FOR THEM TO PARTICIPATE ON A VOLUNTARY BASIS, EACH ONE SUPPLYING OR RECEIVING OIL CONSISTENT WITH ITS OWN ABILITIES AND NEEDS.

TO PARTICIPATE IN A COOPERATIVE SYSTEM OF THIS KIND, U.S. COMPANIES NEED ANTITRUST PROTECTION. EPCA 252 PROVIDES AUTHORITY FOR EXTENDING AN ANTITRUST DEFENSE TO COMPANIES PARTICIPATING IN THE IEA SYSTEM. AS NOTED RECENTLY BY PRESIDENT REAGAN, "A COORDINATED RESPONSE TO ANY INTERNATIONAL OIL SUPPLY DISRUPTION THROUGH THE IEA REQUIRES COOPERATION BY PRIVATE AMERICAN OIL COMPANIES IN WAYS THAT ARE NOT POSSIBLE ABSENT [THE STATUTORY AUTHORIZATION CONTAINED IN EPCA 252]." NATURALLY, EPCA 252 ALSO ESTABLISHES SAFEGUARDS TO ASSURE THAT THIS DEFENSE IS NOT ABUSED.

IN THE PAST TWO MONTHS, THE DEPARTMENTS OF STATE AND ENERGY HAVE AGAIN SOLICITED THE VIEWS OF THE OIL COMPANIES REGARDING TERMINATION OF EPCA 252. WITHOUT EXCEPTION, THE COMPANIES HAVE STATED THAT, ABSENT THE PROTECTION AFFORDED BY EPCA 252, THEY WOULD NOT PARTICIPATE IN THE IEA'S ALLOCATION AND INFORMATION SYSTEMS.

THUS, TO ALLOW EPCA 252 TO LAPSE WOULD SHIFT FROM THE COMPANIES TO THE U.S. GOVERNMENT THE BURDEN OF ORGANIZING MOVEMENT OF OIL TO FULFILL U.S. OBLIGATIONS UNDER THE IEA EMERGENCY OIL ALLOCATION SYSTEM. EXTENSION OF EPCA 252 WILL PERMIT US TO CONTINUE OUR RELIANCE ON THE RESOURCES, KNOW-HOW, AND EFFICIENCY OF COMMERCIAL ENTERPRISES TO MANAGE, UNDER GOVERNMENT SUPERVISION, ANY OIL MOVEMENTS WHICH ARE REQUIRED. WE THEREFORE STRONGLY RECOMMEND ENACTMENT OF S.2332.

THAT BEING SAID, I WOULD URGE ONE SMALL CHANGE TO THE CONTENT OF S.2332. AS INTRODUCED, S.2332 PROVIDES FOR EXTENSION OF EPCA 252 TO JULY 1, 1983. AS YOU KNOW, MR. CHAIRMAN, THE ADMINISTRATION HAS SUPPORTED EXTENSION OF THIS STATUTE TO JUNE 30, 1985, THE DATE ON WHICH EXPIRE THE OTHER IEA-RELATED SECTIONS OF THE ENERGY POLICY AND CONSERVATION ACT. OF LATE, OUR IEA PARTNERS HAVE VOICED GROWING CONCERN THAT OUR FAILURE TO PROVIDE A STABLE, LONG-TERM STATUTORY MANDATE FOR OIL COMPANY PARTICIPATION IN THE IEA INDICATES A DIMINUTION IN U.S. GOVERNMENT SUPPORT FOR THAT ORGANIZATION. A LONGER EXTENSION WOULD ALLAY THOSE CONCERNS.

THE ADMINISTRATION IS PREPARED TO ACCEPT A CONGRESSIONAL DECISION ONCE AGAIN TO LIMIT THE DURATION OF THE EXTENSION TO A SHORTER PERIOD. IN THIS CASE, HOWEVER, I WOULD URGE THAT YOU MAKE THE EXTENSION TO AUGUST 1 RATHER THAN TO JULY 1, 1983. WE HAVE ALREADY SCHEDULED THE FOURTH TEST OF THE IEA ALLOCATION SYSTEM (AST-4) FOR MAY AND JUNE OF NEXT YEAR. PAST TESTS HAVE REQUIRED ACTIVE COMPANY PARTICIPATION IN REVIEW AND EVALUATION ACTIVITIES THROUGH, AND A FEW DAYS BEYOND, THE DATE OF THE TEST'S OPERATIONAL CONCLUSION, AND WE WOULD EXPECT THIS TO BE THE CASE WITH AST-4 AS WELL. IT WOULD BE EXTREMELY EMBARRASSING FOR THE UNITED STATES AND POSSIBLY UNDERMINE THE VALUE OF THE TEST IF, FOR SOME REASON, A FURTHER EXTENSION OF EPCA 252 WERE NOT ENACTED AND U.S. COMPANIES WERE FORCED TO SUSPEND THEIR PARTICIPATION IN THESE TEST ACTIVITIES PRIOR TO THEIR CONCLUSION.

POSSIBLE AMENDMENTS TO EPCA 252

BEFORE CONCLUDING, I WOULD ADDRESS MYSELF TO THE SEVERAL AMENDMENTS TO S.2332 WHICH HAVE BEEN PROPOSED BY SENATORS JACKSON AND DURENBERGER. I WOULD DEFER TO MY COLLEAGUES FROM THE ENERGY DEPARTMENT AS TO THE INDEPENDENT MERITS OF THESE PROPOSED AMENDMENTS. HOWEVER, I BELIEVE THAT IT WOULD BE EXTREMELY UNWISE TO ATTACH THESE AMENDMENTS TO LEGISLATION EXTENDING EPCA 252. WITH ONE EXCEPTION, THEY DO NOT RELATE TO THE IEA. MOREOVER, AS PREVIOUS EXTENSIONS HAVE DEMONSTRATED, THERE EXISTS STRONG AGREEMENT IN THE ADMINISTRATION AND IN THE CONGRESS AS TO THE BENEFITS OF CONTINUED ACTIVE PARTICIPATION IN THE IEA. IN OUR VIEW, IT IS NOT IN THE NATIONAL INTEREST TO ALLOW LEGISLATION PRESERVING THAT PARTICIPATION TO BECOME ENTANGLED IN A DEBATE OVER ASPECTS OF DOMESTIC ENERGY POLICY.

"SUB-TRIGGER" IEA ACTIVITIES

THE PROPOSED AMENDMENT THAT DOES DEAL WITH IEA ACTIVITIES -- AMENDMENT NO. 1353 SUBMITTED BY SENATOR DURENBERGER -- PROVIDES THAT EPCA 252 AUTHORITY SHALL NOT BE EFFECTIVE WITH RESPECT TO IEA ACTIONS UNDER THE DECISION ON PREPARATION FOR FUTURE SUPPLY DISRUPTIONS ADOPTED LAST DECEMBER BY THE IEA GOVERNING BOARD. THIS DECISION SERVES TO CLARIFY THE MEANING OF THE AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM (IEP) IN SPECIFYING THE RESPONSE OF THE IEA TO FUTURE INTERRUPTIONS IN OIL SUPPLY WHICH ARE TOO SMALL TO JUSTIFY ACTIVATION OF THE IEA EMERGENCY SYSTEM (IN SHORTHAND PARLANCE, "SUB TRIGGER DISRUPTIONS").

WE ARE CONCERNED ABOUT THIS AMENDMENT FOR THREE REASONS. FIRST, IF WE UNDERSTAND CORRECTLY THE INTENT OF ITS DRAFTERS, IT IS UNNECESSARY. THE IEA'S SUB-TRIGGER DECISION DOES NOT CONSTITUTE AN ATTEMPT TO EXPAND THE SCOPE OF THE IEP. ITS CAREFULLY CIRCUMSCRIBED LANGUAGE PROVIDES FOR NOTHING MORE THAN MONITORING OF OIL SUPPLY DEVELOPMENTS AND CONSULTATIONS AMONG IEA MEMBER COUNTRIES IN SUB-TRIGGER SUPPLY INTERRUPTIONS. IT DOES NOT COMMIT IEA COUNTRIES IN ADVANCE AS TO ACTIONS WHICH THEY MIGHT TAKE IN RESPONSE TO SUCH INTERRUPTIONS. INDEED, IT AFFIRMS THE PRIMARY IMPORTANCE OF ALLOWING MARKET FORCES TO OPERATE AS A MEANS OF IMPROVING THE BALANCE BETWEEN SUPPLY AND DEMAND FOR OIL IN SHORT SUPPLY. IN ANY CASE, AS NOTED BY THE U.S. DELEGATION AT THE TIME OF ITS ADOPTION, ANY ACTIONS TAKEN IN RESPONSE TO FUTURE DISRUPTIONS MUST BE CONSISTENT WITH NATIONAL LAW AND THE AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM. UNDER NO CIRCUMSTANCES COULD THE UNITED STATES BE FORCED TO TAKE ACTIONS UNDER THIS DECISION WHICH RUN COUNTER TO U.S. LAW OR (SINCE IEA DECISIONS ARE ADOPTED BY UNANIMITY) TO U.S. POLICY. IN SHORT, THIS DECISION DOES NO MORE THAN FLESH OUT THE DETAILS OF THE IEP. THERE ARE NO GROUNDS WHATSOEVER FOR FEAR THAT THIS DECISION PROVIDES A BASIS FOR INCREASED IEA INTERVENTION IN THE OIL MARKET.

SECOND, ENACTMENT OF THIS OR A SIMILAR PROVISION WOULD BE INTERPRETED BY OUR IEA PARTNERS AS A UNILATERAL WITHDRAWAL BY THE UNITED STATES FROM PARTICIPATION IN THE SUB-TRIGGER DECISION, AND CONSEQUENTLY AS A REFUSAL EVEN TO DISCUSS IN

THE IEA ENERGY MATTERS WHICH ARE OF MAJOR IMPORTANCE TO A NUMBER OF OUR IEA PARTNERS. SUCH A POSITION IS NOT CONSISTENT WITH OUR POLITICAL COMMITMENT TO COORDINATE INTERNATIONAL ENERGY POLICY WITH THE OTHER INDUSTRIAL COUNTRIES IN THE IEA.

FINALLY, ENACTMENT OF A SECTION (M)(2)(A) TO EPCA 252 AS PROPOSED IN THE AMENDMENT WOULD REDUCE THE SCOPE OF THE AUTHORITY CURRENTLY PROVIDED BY EPCA 252 IN A WAY THAT WOULD MAKE IT DIFFICULT FOR THE UNITED STATES TO COMPLY FULLY WITH ITS COMMITMENTS UNDER THE IEP. THIS PROVISION SPECIFIES AS ONE OF THE ACTIVITIES FOR WHICH THE EPCA 252 ANTITRUST DEFENSE IS NOT TO BE GRANTED "ANY ACTIVATION OF QUESTIONNAIRES A AND B TO DEAL WITH DISRUPTIONS IN OIL SUPPLY WHICH DO NOT REACH THE SEVEN PERCENT LEVEL REQUIRED TO TRIGGER THE EMERGENCY ALLOCATION SYSTEM".

UNDER THE TERMS OF THE IEP, ACTIVATION OF THE EMERGENCY SYSTEM REQUIRES INITIALLY A FINDING BY THE SECRETARIAT THAT THE REQUIRED MINIMUM LEVEL OF SHORTFALL HAS OCCURRED OR THAT IT CAN REASONABLY BE EXPECTED TO OCCUR. THE SECRETARIAT IS EXPECTED TO BASE SUCH A FINDING ON DATA SUBMITTED TO IT ON QUESTIONNAIRE A BY REPORTING COMPANIES AND ON QUESTIONNAIRE B BY GOVERNMENTS. THUS, AN INITIAL COLLECTION OF QUESTIONNAIRES A AND B IS A PREREQUISITE TO THE DECISION TO ACTIVATE THE EMERGENCY SYSTEM. OBVIOUSLY, WE WOULD EXPERIENCE DIFFICULTY IF A LAW WERE NOW ENACTED WHICH EFFECTIVELY PREVENTED COLLECTION

OF THE QUESTIONNAIRES (OR ANY OTHER ACTIVITIES ASSOCIATED WITH ORGANIZING THE FORMAL EMERGENCY SYSTEM TO RESPOND TO A MAJOR CRISIS SUCH AS CONSULTATIONS WITH COMPANIES) UNTIL IT HAS BEEN DETERMINED THAT A DISRUPTION IN OIL SUPPLY OF THE LEVEL REQUIRED TO TRIGGER THE ALLOCATION SYSTEM HAS OCCURRED. SUCH IMPAIRMENT OF OUR ABILITY TO FULFILL U.S. OBLIGATIONS UNDER THE IEP WOULD CALL INTO QUESTION U.S. SUPPORT FOR THE IEA.

FOR THESE REASONS, WE URGE THE CONGRESS TO EXERCISE RESTRAINT IN ATTEMPTING TO QUALIFY TO AN EVEN GREATER EXTENT U.S. SUPPORT FOR THE IEA SUB-TRIGGER DECISION. THIS DECISION WAS THE PRODUCT OF LONG NEGOTIATION WITH IEA GOVERNMENTS WHOSE ATTITUDES TOWARD THE OPERATION OF THE MARKETPLACE AND THE ROLE OF GOVERNMENT ARE QUITE DIFFERENT FROM OUR OWN. WE BELIEVE THAT WE WERE SUCCESSFUL IN ACHIEVING A RESULT WHICH IN NO WAY COMPROMISES THE U.S. STRATEGY FOR RESPONDING TO OIL CRISES BUT WHICH AT THE SAME TIME PRESERVES GOODWILL AND COOPERATION AMONG THE PARTICIPANTS IN THE IEA. ENACTMENT OF AN AMENDMENT OF THE KIND PROPOSED WOULD ELICIT A STRONG NEGATIVE REACTION FROM OUR IEA PARTNERS AND COULD CAUSE THE COLLAPSE OF THE CAREFULLY-CONSTRUCTED CONSENSUS WE HAVE USED TO CLOSE THIS POLITICAL-LEVEL DISCUSSION OF SUB-TRIGGER CRISIS MANAGEMENT IN THE IEA. AT A TIME OF INSTABILITY IN MANY AREAS OF THE WORLD, AND UNPREDICTABILITY IN OIL PRODUCING AREAS, WE NEED TO MAINTAIN CONFIDENCE IN OUR COMMITMENT TO COOPERATE WITH OUR ALLIES AND FRIENDS ON ENERGY ISSUES. I

URGE THE CONGRESS TO AVOID SHAKING THAT CONFIDENCE.

CONCLUSION

IN CONCLUSION, MR. CHAIRMAN, I WOULD ONLY REITERATE THE IMPORTANCE WE ATTACH TO EXTENSION OF EPCA 252. IT IS IMPORTANT TO OUR NATIONAL INTEREST THAT WE CONTINUE TO PARTICIPATE FULLY IN THE IEA. WE NEED EPCA 252 TO SUSTAIN THAT ROLE.

I WOULD BE PLEASED TO RESPOND TO YOUR QUESTIONS.

Senator NICKLES [presiding]. Thank you very much, Mr. Hormats. We appreciate your input.

Our next statement will be from Mr. Henry Thomas, who is Assistant Secretary of Energy for International Affairs.

STATEMENT OF HON. HENRY E. THOMAS IV, ASSISTANT SECRETARY OF ENERGY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF ENERGY

Mr. THOMAS. Thank you, Mr. Chairman.

I would propose to abbreviate, somewhat, my statement, Mr. Chairman.

Senator NICKLES. The committee would appreciate that.

Mr. THOMAS. Thank you.

Senator NICKLES. Your statement will be entered into the record.

Mr. THOMAS. Mr. Chairman, I appreciate the opportunity to appear before you today to discuss the U.S. participation in the international energy program.

The administration remains committed to the international energy program, the IEP. The International Energy Agency, the IEA, has played and will continue to play a key role in our international energy efforts. It is an important mechanism for facilitating consultations between the major oil importing countries on possible actions to mitigate the impact of oil supply disruptions.

Key features of the international energy program include the oil market information system, the program for long-term cooperation, and the emergency oil sharing system. These basic aspects of the IEP continue to be valid, and the administration supports them.

My remarks will focus principally on U.S. commitments relating to IEA emergency preparedness activity. I will also address the need to extend the limited antitrust defense contained in section 252 of EPCA.

From the time it was established in November 1974, the focus of IEA emergency preparedness activity has centered on the development of an emergency system for dealing with major oil supply interruptions. Under this emergency program, the member countries have agreed to hold emergency reserves and to share the burden of oil supply shortfalls of 7 percent or more among IEA members, and thereby lessen the adverse impacts of these shortfalls and reduce unnecessary conflicts among consuming countries that might otherwise intervene unilaterally in the market to compete for those available oil supplies. They have also agreed to have ready demand restraint measures designed to reduce each member country's rate of oil consumption in an emergency by 7 or 10 percent, depending on the severity of the crisis.

Mr. Chairman, market price effects may operate to achieve this level of demand restraint in the United States. In addition, the United States has adequate statutory authority for various demand restraint activities. Although these authorities remain in effect, the administration has clearly enunciated its policy to place primary reliance on market mechanisms, coupled with high levels of private and Government petroleum stockpiles, to deal with energy emergencies.

The world oil market, however, has changed since the emergency oil sharing scheme was devised, and it is only reasonable that the IEA emergency response system should take these changes into consideration.

A major issue considered by the IEA during the fall of 1981 was how the members might best respond to a so-called "sub-trigger" situation. A sub-trigger situation is a disruption in oil supplies that is not large enough to justify activating the formal IEA emergency sharing system, but which may threaten to escalate oil prices.

Since the IEA was established, member countries have suffered two oil supply disruptions. Neither shortfall resulted in activation of the IEA emergency sharing system. These shortfalls, nevertheless, prompted IEA members to consider how the IEA might respond to future such sub-trigger situations.

The IRA's examination of sub-trigger situation was undertaken early in 1981 and culminated in the December 1981 IEA Governing Board decision on preparation for future supply disruptions.

In this review, the United States expressed strong opposition to any type of formal interventionist mechanism or allocation scheme for dealing with a sub-trigger situation. We adopted this position because we firmly believe that primary reliance on the market together with a high level of stocks are the best means for dealing with such sub-trigger situations.

Consistent with the U.S. view, the IEA membership rejected formal interventionist mechanisms for dealing with such sub-trigger situations.

The December 1981 decision does not in any way seek to extend the antitrust defense contained in section 252 of the EPCA to oil company activities related to sub-trigger situations. For that reason, and because the scope of section 252 already is tightly circumscribed, we do not believe a further restriction is called for.

We are concerned, moreover, that the pending amendment to impose such a restriction could have an unintended adverse impact on the ability of the IEA's emergency sharing system to respond effectively to potentially major disruptions. This is because the amendment either excludes or casts doubt on the availability of antitrust protection for certain activities initiated prior to a 7 percent IEA trigger, but which long have been recognized as integral to the process of deciding whether a trigger situation exists or in fact is developing, including in this regard reporting company submissions of so-called questionnaire A forms when an oil supply crisis may be imminent; bilateral oil company consultations with the IEA concerning oil market conditions pursuant to antitrust approval letters; and provision of quarterly oil forecasts to the IEA by several companies under antitrust approvals originally granted pursuant to the Defense Production Act, prior to enactment of EPCA.

Mr. Chairman, the administration will continue to work closely with our IEA partners and with U.S. oil companies to assure an accurate understanding of the oil market and its operations.

At present, 21 U.S. companies, including both major and independent oil companies, are among the 47 oil companies actively advising the IEA on technical matters relating to severe oil supply disruptions. These companies would also provide much of the logistical wherewithal to carry out the IEA emergency sharing scheme should it be activated.

It is because of the critical role of U.S. oil companies, both in ongoing IEA activities and in possible IEA measures during an oil supply emergency, that President Reagan has asked Congress to extend the limited antitrust defense contained in section 252 that will now expire on June 1, 1982. Without this defense, the U.S. oil companies would not be able to participate in all of the activities of the IEA. This defense is contingent upon the oil companies 'compliance with procedures developed by the Department of Energy in conjunction with the Department of Justice, the Federal Trade Commission, and the Department of State.

The bill under consideration would extend the section 252 authority until July 1, 1983, a date which coincides with conclusion of the second monthly cycle of the IEA's fourth allocation systems test, scheduled for May and June of 1983.

Mr. Chairman, in this regard, following this test a number of oil company personnel probably will remain at the IEA premises in Paris to prepare a test appraisal and generally close down the operation. Similarly, participating companies in the United States will remain involved in post-test activity. Because of these reasons, we would suggest, Mr. Chairman, that section 252 be extended for at least another month beyond July 1, 1983.

In addition to supporting the central role of the IEA with respect to the ability of oil consuming countries as a group to deal with oil supply disruptions, the administration is taking a number of measures to enhance our own understanding of the world oil market and to strengthen the ability of the U.S. Government to reinforce market forces during an oil supply crisis.

The administration, of course, continues to add oil to the strategic petroleum reserve in line with the growing storage capacity.

Clearly, while a strong SPR is important, that alone is not enough to prepare for an oil supply interruption. Optimal use of the SPR and effective work in the IEA necessitates that the U.S. Government have sophisticated and up-to-date understanding of the dynamics of and conditions in the world oil market. We are undertaking those efforts as have been undertaken previously to assure that we have this understanding.

We continue to maintain a strong oil market surveillance and analysis capability. The SPR and our strong market analysis capabilities are consistent and complimentary with our commitment to the International Energy Agency.

These resources enhance our own capabilities while leaving us in full support of the work of the IEA.

Mr. Chairman, that completes my remarks. I will be pleased to answer any questions you may have.

[The prepared statement of Mr. Thomas follows:]

STATEMENT OF HON. HENRY E. THOMAS IV, ASSISTANT SECRETARY OF ENERGY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF ENERGY

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS U.S. PARTICIPATION IN THE INTERNATIONAL ENERGY PROGRAM.

THE ADMINISTRATION REMAINS COMMITTED TO THE INTERNATIONAL ENERGY PROGRAM (IEP). THE INTERNATIONAL ENERGY AGENCY (IEA) HAS PLAYED AND WILL CONTINUE TO PLAY A KEY ROLE IN OUR INTERNATIONAL ENERGY EFFORTS. IT IS AN IMPORTANT MECHANISM FOR FACILITATING CONSULTATIONS BETWEEN THE MAJOR OIL IMPORTING COUNTRIES ON POSSIBLE ACTIONS TO MITIGATE THE IMPACT OF OIL SUPPLY DISRUPTIONS.

KEY FEATURES OF THE INTERNATIONAL ENERGY PROGRAM (IEP) INCLUDE:

- THE OIL MARKET INFORMATION SYSTEM AIMED AT IMPROVING MEMBER COUNTRIES' KNOWLEDGE OF THE INTERNATIONAL OIL MARKET THROUGH DATA SUBMISSIONS AND THE FRAMEWORK FOR CONSULTATIONS WITH OIL COMPANIES;

- THE PROGRAM FOR LONG-TERM COOPERATION DESIGNED TO REDUCE DEPENDENCE ON IMPORTED OIL THROUGH ECONOMICALLY EFFICIENT CONSERVATION, DEVELOPMENT OF ALTERNATIVE ENERGY SOURCES, AND ENERGY R&D; AND

- THE EMERGENCY OIL SHARING SYSTEM WHEREIN MEMBER COUNTRIES ARE COMMITTED TO TAKE COMMON ACTION TO DEAL WITH MAJOR OIL SUPPLY INTERRUPTIONS.

THESE BASIC ASPECTS OF THE IEP CONTINUE TO BE VALID, AND THE ADMINISTRATION SUPPORTS THEM.

MY REMARKS WILL FOCUS PRINCIPALLY ON U.S. COMMITMENTS RELATING TO IEA EMERGENCY PREPAREDNESS ACTIVITIES INCLUDING THE DECISION ADOPTED LAST DECEMBER BY THE GOVERNING BOARD ENTITLED, "DECISION ON PREPARATION FOR FUTURE SUPPLY DISRUPTIONS". I WILL ALSO ADDRESS THE NEED TO EXTEND THE LIMITED ANTITRUST DEFENSE CONTAINED IN SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT (EPCA).

FROM THE TIME IT WAS ESTABLISHED IN NOVEMBER 1974, THE FOCUS OF IEA EMERGENCY PREPAREDNESS ACTIVITY HAS CENTERED ON THE DEVELOPMENT OF AN EMERGENCY SYSTEM FOR DEALING WITH MAJOR OIL SUPPLY INTERRUPTIONS. UNDER THIS EMERGENCY PROGRAM, THE MEMBER COUNTRIES AGREED TO TAKE THE FOLLOWING ACTIONS:

- TO HOLD EMERGENCY RESERVES EQUIVALENT TO 90 DAYS OF NET IMPORTS IN THE PRIOR CALENDAR YEAR. AT THE DECEMBER 1981 GOVERNING BOARD MEETING, THE IEA MEMBERS AGREED NOT ONLY TO MEET THE IEP STANDARD FOR MAINTAINING RESERVES, BUT ALSO TO MAKE EFFORTS TO MAINTAIN RESERVES EQUIVALENT TO 90 DAYS OF 1980 IMPORTS IN ORDER TO PREVENT EROSION IN RESERVE REQUIREMENTS DUE TO TEMPORARY IMPORT DECLINES. MOST IEA COUNTRIES, INCLUDING THE UNITED STATES, HOLD WELL IN EXCESS OF THE 90-DAY IMPORT REQUIREMENT. ACCORDING TO THE IEA, THE UNITED STATES HOLDS APPROXIMATELY 211 DAYS OF 1980 NET IMPORTS IN BOTH THE SPR AND INDUSTRY RESERVES.

- TO SHARE THE BURDEN OF OIL SUPPLY SHORTFALLS OF 7 PERCENT OR MORE AMONG IEA MEMBERS AND THEREBY LESSEN THE ADVERSE IMPACTS OF THESE SHORTFALLS AND REDUCE UNNECESSARY CONFLICTS AMONG CONSUMING COUNTRIES WHICH MIGHT OTHERWISE INTERVENE UNILATERALLY IN THE MARKET TO COMPETE FOR AVAILABLE OIL SUPPLIES. THE SYSTEM OPERATES UNDER CONDITIONS OF A GENERAL SHORTFALL COVERING ALL THE MEMBERS AND UNDER A SELECTIVE SHORTFALL BEING EXPERIENCED BY A SINGLE IEA MEMBER.

- TO HAVE READY DEMAND RESTRAINT MEASURES DESIGNED TO REDUCE EACH MEMBER COUNTRY'S RATE OF OIL CONSUMPTION IN AN EMERGENCY BY 7 OR 10 PERCENT DEPENDING ON THE SEVERITY OF THE CRISIS. EACH MEMBER COUNTRY HAS DISCRETION IN SELECTING THE DEMAND RESTRAINT MEASURES TO APPLY, AND THE IEP PROVIDES THAT A MEMBER MAY MEET ITS DEMAND RESTRAINT GOAL THROUGH DRAWDOWN OF PRIVATE AND PUBLIC PETROLEUM STOCKS IN EXCESS OF ITS EMERGENCY RESERVE COMMITMENT.

MARKET PRICE EFFECTS MAY OPERATE TO ACHIEVE THIS LEVEL OF DEMAND RESTRAINT IN THE UNITED STATES. IN ADDITION, THE UNITED STATES HAS ADEQUATE STATUTORY AUTHORITY FOR VARIOUS DEMAND RESTRAINT ACTIVITIES. ALTHOUGH THESE AUTHORITIES REMAIN IN EFFECT, THE ADMINISTRATION HAS CLEARLY ENUNCIATED ITS POLICY TO PLACE PRIMARY RELIANCE ON MARKET MECHANISMS

COUPLED WITH HIGH LEVELS OF PRIVATE AND GOVERNMENT PETROLEUM STOCKPILES TO DEAL WITH ENERGY EMERGENCIES.

THE WORLD OIL MARKET, HOWEVER, HAS CHANGED SINCE THE EMERGENCY OIL SHARING SCHEME WAS DEVISED, AND IT IS ONLY REASONABLE THAT THE IEA EMERGENCY RESPONSE SYSTEM SHOULD TAKE THESE CHANGES INTO CONSIDERATION.

A MAJOR ISSUE CONSIDERED BY THE IEA DURING THE FALL OF 1981 WAS HOW THE MEMBERS MIGHT BEST RESPOND TO A SO-CALLED "SUB-TRIGGER SITUATIONS." A SUB-TRIGGER SITUATION IS A DISRUPTION IN OIL SUPPLIES THAT IS NOT LARGE ENOUGH TO JUSTIFY ACTIVATING THE FORMAL IEA EMERGENCY SHARING SYSTEM, BUT WHICH MAY THREATEN TO ESCALATE OIL PRICES.

SINCE THE IEA WAS ESTABLISHED, MEMBER COUNTRIES HAVE SUFFERED TWO SERIOUS OIL SUPPLY DISRUPTIONS--THE SHORTFALL WHICH OCCURRED IN THE WAKE OF THE 1978-1979 IRANIAN REVOLUTION, WHICH RESULTED IN AN INITIAL LOSS OF ALMOST 5 MMB/D, AND THE SHORTFALL PRECIPITATED BY THE 1980-1981 IRAN-IRAQ WAR, WHICH RESULTED IN AN INITIAL LOSS OF APPROXIMATELY 4 MMB/D. NEITHER SHORTFALL RESULTED IN ACTIVATION OF THE IEA EMERGENCY SHARING SYSTEM. THESE SHORTFALLS NEVERTHELESS PROMPTED IEA MEMBERS TO CONSIDER HOW THE IEA MIGHT RESPOND TO FUTURE "SUB-TRIGGER" SITUATIONS. THIS REVIEW WAS UNDERTAKEN EARLY IN 1981 AND CULMINATED IN THE DECEMBER 1981 IEA GOVERNING BOARD DECISION ON PREPARATION FOR FUTURE SUPPLY DISRUPTIONS.

IN THIS REVIEW, THE UNITED STATES EXPRESSED ITS STRONG OPPOSITION TO ANY TYPE OF FORMAL INTERVENTIONIST MECHANISM OR ALLOCATION SCHEME FOR DEALING WITH A "SUB-TRIGGER" SITUATION. WE ADOPTED THIS POSITION BECAUSE WE FIRMLY BELIEVE THAT PRIMARY RELIANCE ON THE MARKET TOGETHER WITH A HIGH LEVEL OF STOCKS ARE THE BEST MEANS FOR DEALING WITH "SUB-TRIGGER" SITUATIONS. MOREOVER, IN JUST THE LAST 3 YEARS, A NUMBER OF FACTORS HAVE REDUCED THE WORLD OIL TRADE FROM ABOUT 35 MILLION BARRELS PER DAY TO ABOUT 30 MILLION BARRELS PER DAY; BECAUSE OF INCREASED PRODUCTION IN MEXICO, THE UK, AND OTHER NON-OPEC OIL PRODUCING COUNTRIES, OPEC'S SHARE OF THESE WORLD OIL MARKETS HAS FALLEN FROM NEARLY 82 PERCENT IN 1979 TO LESS THAN 50 PERCENT TODAY. WITH THE DEVELOPMENT OF PRODUCTION CAPABILITIES OUTSIDE OF OPEC, SUFFICIENT UNUSED CAPACITY HAS BEEN RESTORED TO PROVIDE A CUSHION AGAINST THE MORE MODERATE FORMS OF OIL SUPPLY DISRUPTION THAT HAVE KEPT THE WORLD OFF BALANCE FOR MORE THAN A DECADE. ADDITIONALLY, WE ARGUED THAT SUPPLY SOURCES ARE NOW MORE HIGHLY DIVERSIFIED SO THAT THE NUMBER OF POTENTIAL INCIDENTS THAT COULD RESULT IN SERIOUS SUPPLY INTERRUPTIONS HAS BEEN REDUCED.

CONSISTENT WITH THE U.S. VIEW, THE IEA MEMBERSHIP REJECTED FORMAL INTERVENTIONIST MECHANISMS FOR DEALING WITH SUB-TRIGGER

SITUATIONS, AND DECIDED INSTEAD, AS EVIDENCED IN THE DECEMBER 1981 GOVERNING BOARD DECISION, TO:

- ALLOW MARKET FORCES TO OPERATE AND TO STRENGTHEN THEM WHERE POSSIBLE TO IMPROVE THE SUPPLY/DEMAND BALANCE AND THE DISTRIBUTION OF OIL IN SHORT SUPPLY;
- MEET PROMPTLY TO CONSIDER WHAT, IF ANY, SUPPLEMENTARY ACTION BY GOVERNMENTS MAY BE NECESSARY IN THOSE AREAS WHERE MARKET FORCES DO NOT COUNTERACT THE ADVERSE IMPACT OF SUPPLY DISRUPTIONS; AND
- MONITOR CONTINOUSLY OIL SUPPLY, DEMAND AND STOCKS OF IEA COUNTRIES AND WORLDWIDE TO ASSESS ACCURATELY AND IN A TIMELY MANNER THE NATURE, EXTENT AND PROBABLE IMPACT OF SUPPLY DISRUPTIONS.

AS THE IEA PLANS TO RELY PRIMARILY ON MARKET MECHANISMS, REINFORCED IF NECESSARY BY CERTAIN GOVERNMENT MEASURES, IT IS CRITICAL THAT THE IEA AND ITS MEMBER GOVERNMENTS HAVE A FULL UNDERSTANDING OF THE OIL MARKET AND THE FORCES AFFECTING IT.

THIS UNDERSTANDING CAN BEST BE ACHIEVED AND MAINTAINED THROUGH CONSTANT MONITORING OF THE OIL MARKET AND THROUGH CONSULTATIONS WITH THOSE INTERATIONAL OIL COMPANIES THAT CONTINUALLY OPERATE IN IT.

The following statement was made by the U.S. Delegation to the December Governing Board to clarify the U.S. understanding of the Decision:

"The United States welcomes this Decision. At the same time we must state for the record our understanding of it. The United States remains committed to reliance on free market forces as the most effective response to supply disruptions. We are pleased to note the inclusion of this thought in the preamble to the Decision as a guiding principle for IEA discussions of market disruptions. The Decision establishes a basis for future IEA consultations in the event of sub-trigger supply disruptions. However, it does not commit IEA countries in advance as to the specific actions which they might take in such circumstances. Moreover, we note the fact that any actions taken in response to future disruptions must be consistent with national law and the Agreement on an International Energy Program, and that this may vary from country-to-country."

The December 1981 decision does not in any way seek to extend the antitrust defense contained in section 252 of the EPCA to oil company activities to deal with sub-trigger situations. For that reason, and because the scope of section 252 already is tightly circumscribed, we do not believe a further restriction is called for. We are concerned, moreover, that the pending amendment to impose such a restriction could have an unintended adverse impact on the ability of the IEA's Emergency Sharing System to respond effectively to potentially major disruptions. This is because the amendment either excludes or casts doubt on the availability of antitrust protection for certain activities initiated prior to a 7 percent IEA trigger, but which long have been recognized as integral to the process of deciding whether a trigger situation exists or is developing, including: Reporting company submisson of so-called "Questionnaire A" forms when an oil supply crisis may be imminent; bilateral oil company consultations with the IEA concerning oil market conditions, pursuant to antitrust approval letters; and provision of quarterly oil forecasts to the IEA by several companies under antitrust approvals originally granted pursuant to the Defense Production Act, prior to enactment of the EPCA.

The Administration will continue to work closely with our IEA partners and with U.S. oil companies to assure an accurate understanding of the oil market and its operations. At present, 21 U.S. companies, including both major and independent oil companies, are among the 47 oil companies actively advising the IEA on technical matters relating to severe oil supply disruptions. These companies would also provide much of the logistical wherewithal to carry out the IEA emergency sharing scheme should it be activated.

IT IS BECAUSE OF THE CRITICAL ROLE OF U.S. OIL COMPANIES, BOTH IN ONGOING IEA ACTIVITIES AND IN POSSIBLE IEA MEASURES DURING AN OIL SUPPLY EMERGENCY, THAT PRESIDENT REAGAN HAS ASKED CONGRESS TO EXTEND THE LIMITED ANTITRUST DEFENSE CONTAINED IN SECTION 252 OF THE EPCA THAT NOW WILL EXPIRE ON JUNE 1, 1982. WITHOUT THIS DEFENSE THE U.S. OIL COMPANIES WOULD NOT BE ABLE TO PARTICIPATE IN ALL THE ACTIVITIES OF THE IEA. THIS DEFENSE IS CONTINGENT UPON THE OIL COMPANIES' COMPLIANCE WITH PROCEDURES DEVELOPED BY THE DEPARTMENT OF ENERGY IN CONJUNCTION WITH THE DEPARTMENT OF JUSTICE, THE FEDERAL TRADE COMMISSION AND THE DEPARTMENT OF STATE. THESE INCLUDE PUBLIC NOTIFICATION OF INDUSTRY MEETINGS CONVENED TO ADVISE THE IEA, U.S. GOVERNMENT MONITORING AND TRANSCRIPTION OF INDUSTRY MEETINGS, FILING WITH DOE OF A COMPLETE RECORD OF IEA RELATED INTERCOMPANY COMMUNICATIONS, AND U.S. GOVERNMENT APPROVAL FOR ANY SUBMISSION OF PROPRIETARY COMPANY DATA TO THE IEA PRIOR TO ACTIVATION OF THE IEA SHARING SYSTEM.

THE BILL UNDER CONSIDERATION WOULD EXTEND THE SECTION 252 AUTHORITY UNITL JULY 1, 1983, A DATE WHCH COINCIDES WITH CONCLUSION OF THE SECOND MONTHLY CYCLE OF THE IEA'S FOURTH ALLOCATION SYSTEM TEST (AST-4), SCHEDULED FOR MAY AND JUNE OF 1983. FOLLOWING AST-4 A NUMBER OF OIL COMPANY PERSONNEL PROBABLY WILL REMAIN AT THE IEA PREMISES IN PARIS TO PREPARE A TEST APPPRAISAL AND GENERALLY WIND DOWN OPERATIONS. SIMILARLY, PARTICIPATING COMPANIES IN THE U.S. WILL REMAIN

INVOLVED IN POST-TEST ACTIVITIES. BECAUSE UNCERTAINTY AS TO THE AVAILABILITY OF ANTITRUST COVERAGE AFTER JULY 1, 1983 COULD CREATE AN UNFAVORABLE ENVIRONMENT FOR U.S. PARTICIPATION IN AST-4, WE URGE THAT SECTION 252 BE EXTENDED FOR AT LEAST ANOTHER MONTH BEYOND JULY 1, 1983.

IN ADDITION TO SUPPORTING THE CENTRAL ROLE OF THE IEA WITH RESPECT TO THE ABILITY OF OIL CONSUMING COUNTRIES AS A GROUP TO DEAL WITH OIL SUPPLY DISRUPTIONS, THE ADMINISTRATION IS TAKING A NUMBER OF MEASURES TO ENHANCE OUR OWN UNDERSTANDING OF THE WORLD OIL MARKET AND TO STRENGTHEN THE ABILITY OF THE U.S. GOVERNMENT TO REINFORCE MARKET FORCES DURING AN OIL SUPPLY CRISIS.

FIRST, THE ADMINISTRATION CONTINUES TO ADD OIL TO THE STRATEGIC PETROLEUM RESERVE IN LINE WITH THE GROWING STORAGE CAPACITY. ASSISTANT SECRETARY VAUGHAN CAN SPEAK ABOUT THE SPR WITH GREATEST AUTHORITY. I WILL ONLY SAY THAT WITH OVER 250 MILLION BARRELS IN STORAGE AND WITH THE STEADY FILL TO CAPACITY POLICY WE WILL CONTINUE TO IMPLEMENT, THE SPR IS RAPIDLY BECOMING A SIGNIFICANT RESOURCE STRENGTHENING OUR ABILITY TO RESPOND TO AN OIL SUPPLY DISRUPTION AND SO LIMIT VULNERABILITY OF THE U.S. ECONOMY. WE ARE ALSO ENCOURAGING OUR IEA PARTNERS TO INCREASE THEIR STOCK LEVELS.

WHILE A STRONG SPR IS IMPORTANT, THAT ALONE IS NOT ENOUGH TO PREPARE FOR AN OIL SUPPLY INTERRUPTION. OPTIMAL USE OF THE

SPR AND EFFECTIVE WORK IN THE IEA NECESSITATES THAT THE U.S. GOVERNMENT HAS SOPHISTICATED, AND UP-TO-DATE UNDERSTANDING OF THE DYNAMICS OF AND CONDITIONS IN THE WORLD OIL MARKET. WE ARE TAKING A NUMBER OF STEPS TO ASSURE THAT WE HAVE THIS UNDERSTANDING.

WE CONTINUE TO MAINTAIN A STRONG OIL MARKET SURVEILLANCE AND ANALYSIS CAPABILITY . THIS IS AN ONGONG EFFORT THAT RANGES FORM NEAR TERM DESCRIPTIONS AND INTERPRETATIONS OF SPOT MARKET ACTIVITY TO LONG-RANGE WORLD OIL SUPPLY AND DEMAND FORECASTS. TO CARRY OUT THIS WORK, WE MAKE USE OF A WIDE SPECTRUM OF OPEN, PROPRIETARY, AND CLASSIFIED INFORMATION RESOURCES INCLUDING EXTENSIVE, CAREFULLY MAINTAINED INFORMATION CONTACTS THROUGHOUT THE PETROLEUM INDUSTRY, DISCUSSIONS WITH GOVERNMENT OFFICIALS IN OIL EXPORTING AND OTHER OIL IMPORTING COUNTRIES, INTERACTION WITH NOTED SCHOLARS AND ECONOMISTS, AND THE USE OF INTELLIGENCE PROGRAMS. WHILE I CANNOT DESCRIBE THIS LAST CATEGORY OF RESOURCES IN DETAIL IN THIS OPEN HEARING, I CAN SAY THAT WE ARE DEVELOPING A SYSTEM THAT, WHEN COMBINED WITH ALL OUR OTHER DATA GATHERING AND ANALYTIC CAPBILITIES, WILL PROVIDE US WITH A VERY TIMELY DETAILED VIEW OF CONDITIONS IN THE WORLD OIL MARKET THAT SHOULD GREATLY ENHANCE OUR ABILITY TO DIAGNOSE SPECIFIC PROBLEMS DURING AN OIL SUPPLY DISRUPTION.

THE SPR AND OUR STRONG MARKET ANALYSIS CAPABILITIES ARE CONSISTENT AND COMPLIMENTARY WITH OUR COMMITMENT TO THE IEA. THESE RESOURCES ENHANCE OUR OWN CAPABILITIES WHILE LEAVING US IN FULL SUPPORT OF THE WORK OF THE INTERNATIONAL ENERGY AGENCY.

THIS CONCLUDES MY STATEMENT. I WILL BE HAPPY TO ANSWER QUESTIONS.

Senator NICKLES. Thank you, Mr. Thomas. We appreciate your statement.

The next witness we have is William Vaughan, who is Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness for the Department of Energy.

Mr. Vaughan.

STATEMENT OF HON. WILLIAM A. VAUGHAN, ASSISTANT SECRETARY FOR ENVIRONMENTAL PROTECTION, SAFETY, AND EMERGENCY PREPAREDNESS, DEPARTMENT OF ENERGY, ACCOMPANIED BY RICHARD D. FURIGA, DEPUTY ASSISTANT SECRETARY FOR STRATEGIC PETROLEUM RESERVES

Mr. VAUGHAN. Mr. Chairman, thank you for inviting me to discuss the Department of Energy's emergency preparedness programs. At this point I will give you an abbreviated version of my more detailed statement.

The overriding goals of our energy preparedness activities are to reduce the Nation's vulnerability to energy supply disruptions and to mitigate their adverse impacts.

We have abandoned the past policies of extensive Federal intervention in the marketplace, specifically, oil allocations, price controls, and mandatory demand restraint measures, because in many cases these measures and techniques created or exacerbated the adverse economic and social impacts of past fuel shortages.

Our strategies are based on a reliance on the marketplace as the appropriate response to fuel shortages, and an aggressive strategic petroleum reserve fill policy. In the past 15 months, this administration, with the assistance of the Congress, has increased the oil stored in the reserve by over 130 percent, to where it is now over one-third full. It presently contains 254 million barrels of crude oil with a maximum drawdown capacity of 1.7 million barrels per day.

The administration believes that this strong commitment to the development of a full 750 million barrel SPR program coupled with a flexible market based energy emergency response mechanism are the most efficient and effective means of counteracting the adverse impacts of future energy emergencies.

As recently as this past Saturday at the opening of the World's Fair in Knoxville, Tenn., President Reagan reiterated his commitment to this fundamental concept of a flexible market-based response approach to dealing with energy emergencies.

Mr. Chairman, I would like to briefly address the issues raised in the proposed amendments to S. 2332. We are strongly opposed to the rigid requirement that the strategic petroleum reserve fill rate be increased to an average of at least 300,000 barrels per day. As I have previously testified, the President's fiscal year 1983 budget does not provide for a fill rate at this level. The oil purchasing budget is based on the existing program policy of acquiring oil and filling to permanent capacity in underground storage facilities.

We believe that this is still a sound policy, particularly in view of existing budget realities and constraints.

We are strongly opposed to the requirement for the development and submission of a new strategic petroleum reserve distribution plan. The existing distribution plan became effective on March 15, 1979, following full congressional review, as mandated by the Energy Policy and Conservation Act.

This plan provides the President with the necessary flexibility and discretion in using the strategic petroleum reserve to respond to a severe energy supply interruption.

A new distribution plan prescribing certain mandatory action and limiting the flexibility of the President will reduce the ability of the Strategic Petroleum Reserve to respond appropriately and effectively to energy emergencies.

Mr. Chairman, as the committee knows and has been reported in the media, Secretary Edwards has announced in a formal statement in a press release that the Department of Energy was fully cooperating with the Department of Justice in an ongoing criminal investigation related to allegation that there has been substitution of waste oil or crude oil purchased for storage in the strategic petroleum reserve.

We have had meetings with the committee's staff, a full briefing on that subject, and we believe that while we are fully willing to discuss that in a closed session or with the staff, we believe to discuss that matter in open hearing further in detail would be counterproductive and could jeopardize the Department of Justice activity, particularly with respect to the possibility of criminal prosecution.

Mr. Chairman, at this point, I am ready to answer any questions you might have.

[The prepared statement of Mr. Vaughan follows:]

STATEMENT OF HON. WILLIAM A. VAUGHAN, ASSISTANT SECRETARY, ENVIRONMENTAL PROTECTION, SAFETY, AND EMERGENCY PREPAREDNESS, DEPARTMENT OF ENERGY

Mr. Chairman and Members of the Committee:

Thank you for inviting me to discuss the Department's emergency preparedness programs. The Department's three energy emergency programs are concentrated in three program offices under my direction--the Office of Energy Emergencies, the Strategic Petroleum Reserve (SPR) and the Naval Petroleum and Oil Shale Reserves.

The overriding goals of the Department's energy emergency preparedness program are to reduce the Nation's vulnerability to energy supply disruptions and to mitigate their adverse impacts upon the Nation. We have abandoned the past policy of extensive Federal intervention in the marketplace--oil allocations, price controls and mandatory demand restraint measures. These regulations created or exacerbated the adverse economic and social impacts of fuel shortages.

Our strategies to reduce vulnerability are reliance on the marketplace as the appropriate response to fuel shortages, and an aggressive Strategic Petroleum Reserve fill policy. We seek to remove barriers to short-term marketplace adjustments and to develop adequate crude oil stocks that can be drawn down in an emergency.

In addition to our commitment to the SPR we want to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives to private stockbuilding. The Naval Petroleum Reserves are also producing at the maximum efficient rate and will sell the Government's share of production to the Department of Defense to help it establish secure sources of supply. Let me discuss each of these programs in more detail with an emphasis on emergency programs as requested in the invitation letter.

The Strategic Petroleum Reserve presently contains 254 million barrels of crude oil with a maximum drawdown capability of 1.7 million barrels per day. The total fill for calendar year 1981 was 122.5 million barrels, resulting in a cumulative fill of 230.3 million barrels by the end of 1981. We exceeded an average daily fill rate of 300 thousand barrels per day for seven months last year with the highest average daily rate of 513 thousand barrels per day achieved in May. In the past fifteen months this Administration, with the assistance of the Congress, has increased the oil stored in the Reserve by over one hundred and thirty percent to where it is over one-third full.

There were four reasons for the SPR's oil acquisition success over the past year: (1) the policy impetus and sustained support of top Administration officials; (2) availability of oil storage capacity which had been left unfilled when this Administration took office; (3) favorable oil market conditions; and (4) Congressional approval of nearly $5 billion in appropriations requested by President Reagan since he took office.

For the remainder of FY 1982, we have an additional 18 million barrels under contract and scheduled for delivery. This will increase our cumulative SPR inventory to 272 million barrels at the end of FY 1982. We are now accepting offers for short-term delivery to fill new storage capacity as it becomes available and we also plan to solicit contracts later this year for deliveries of oil to fill Phase II storage capacity during fiscal year 1983.

We are developing the SPR program in three separate phases to provide 750 million barrels of capacity.

Phase I consists of 250 million barrels of storage capacity at five sites - Bryan Mound in Texas; and Bayou Choctaw, West Hackberry, Weeks Island and Sulphur Mines in Louisiana. It also includes a Government-owned terminal facility constructed at St. James, Louisiana. We finished construction on these sites in 1980, and we expect to complete actual oil fill of Phase I storage in FY 1982.

Under Phase II, we will gain an additional 290 million barrels of storage by expanding three existing Phase I sites. Bryan Mound is being expanded by 120 million barrels, West Hackberry by 160 million barrels and Bayou Choctaw by 10 million barrels. An existing storage cavern will be acquired for the additional capacity at Bayou Choctaw. New caverns will be created at Bryan Mound and West Hackberry through solution mining. Construction of all Phase II surface facilities was completed in 1981.

Phase III involves the further expansion of Bryan Mound and West Hackberry by an additional 70 million barrels and development of a new 140 million barrel site at Big Hill, Texas. The Big Hill site, as currently planned, will include 14 new caverns and the necessary surface facilities, and when filled will increase the SPR drawdown rate to almost 4.5 million barrels per day.

At this juncture it is appropriate to express our strong opposition to the requirement in Amendment 1354 to S. 2332 that the Department increase the SPR fill rate to an average annual daily rate of at least 300,000 barrels per day. We believe that our current policy of acquiring oil and filling the SPR to the level of available permanent storage capacity is sound, particularly in light of the constraints in the President's budget request and permanent capacity limitations.

It simply is not possible in the near-term to significantly increase permanent storage capacity for the SPR over the projected levels, and our ability to obtain additional storage pending completion of permanent underground storage facilities is dependent on the availability of suitably-located, appropriately-sized and secure storage facilities. It must be noted that in choosing to utilize non-permanent storage facilities we increase certain program risks such as the potential for fraud and theft, possible displacement of private stocks, increased environmental consequences and higher facility costs.

In view of current oil market conditions and the prospect of continued price decline or, at a minimum, stable oil prices, we are considering the advisability of purchasing some additional oil with the funds contained in the FY 83 budget request and holding such oil in temporary storage pending the completion of permanent storage facilities.

We also are strongly opposed to the requirement in Amendment 1354 to S. 2332 for submission of a new SPR Distribution Plan. The current SPR Distribution Plan, which became effective November 15, 1979, following Congressional review, provides the President with ample flexibility in using the SPR to respond to a severe energy supply emergency.

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Different energy supply disruptions may necessitate different responses. Since the length and depth of a disruption will not be known at the outset, nor will a disruption be constant and uniform over time, rigid plans for drawdown and distribution make little sense and, if developed and made public, could impair the effective use of the SPR. The existing SPR Distriution Plan is designed to preserve the required flexibility by detailing options, including price-competitive sale of SPR oil, allocation of SPR oil at administratively-set market prices, targeting of SPR oil at hard hit regions or sectors of the economy, using SPR oil to meet defense needs, etc. The Plan also gives the President the authority to distribute SPR oil to U.S. firms which make voluntary offers to enable the United States to meet its commitments under the Agreement on an International Energy Program.

We also oppose the study requirements in the amendments to S. 2332, since certain of the materials have been completed and provided to the Congress and other items are currently under study. On several occasions, we have discussed this matter with the Senate Energy Committee staff.

Within the framework of the existing SPR Distribution Plan we are developing an SPR Distribution Management Manual which identifies logistical, legal, and managerial requirements to distribute SPR crude oil. This manual focuses on the actions the Department must initiate once the President has made the necessary findings and orders an SPR drawdown.

Other office activities to enhance domestic supplies include the analysis of options to encourage the buildup of fuel stocks by the Federal and private sectors. We are evaluating scenarios to eliminate disincentives and studying possible incentives which might be appropriate.

The Naval Petroleum and Oil Shale Reserves also are a critical component of the Department's energy emergency preparedness program. Last fall the President made a major decision to continue production of the Naval Petroleum Reserves at their maximum efficient rates for three years beyond the initial six-year period ending April 4, 1982. Although the decision by the President with respect to the national interest was based primarily on economic considerations, the Department of Defense will benefit by receiving all of the Government's share of crude oil production from the Reserves beginning May 1, 1982. DOD will exchange the crude for military fuels delivered at various locations in the United States. The exchange is open to all companies regardless of size, thereby assuring competition. This assured supply of oil will help insulate the Department of Defense from the adverse impacts of future crude oil shortages.

Oil produced at Naval Petroleum Reserve No. 1 also was used indirectly to help resume fill of the Strategic Petroleum Reserve. The program through which NPR-1 oil was exchanged for oil delivered to SPR storage sites was concluded November 1, 1981. Over the year preceding that date, an average of 103,472 BOPD were sold to six companies, which in exchange, provided an equivalent amount, totaling 36.7 million barrels, for storage in the SPR.

Energy emergency program efforts are also directed to mitigating the impacts of fuel supply disruptions. We support U.S. involvement in the International Energy Agency (IEA). We are developing plans for U.S. participation in the IEA's Allocation System Test-4 in the spring of 1983. To complement these efforts, we are also examining the financial and economic impacts of energy supply disruptions, and the feasibility of recycling selected revenues.

In order to meet statutory requirements and to fulfill our public responsibilities in emergencies, it is essential for the Department to analyze and disseminate certain information. For this reason we are developing a public information plan which will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs, and which will provide effective communications during a crisis. We are also developing and refining a daily energy situation report--an "early warning" tripwire system to provide accurate and timely assessments of domestic and international energy markets and conditions. In addition, we are developing a rapid information retrieval and analytical capability utilizing EIA data and expertise.

Government cannot and should not attempt to accomplish the emergency preparedness task alone. To obtain needed industry expertise in planning for and responding to energy emergencies, we are considering revitalizing of the long dormant Executive Manpower Reserves--the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve and the Emergency Solid Fuels Reserve. The Reserves could provide a role for both energy producers and consumers as well as for State and local governments, financial institutions, and other businesses, on a volunteer basis, without establishing a permanent bureaucracy.

In addition to the Manpower Reserves programs, we have a responsibility to coordinate our activities with other State and local governments as well as with other Federal agencies. To facilitate communication, we maintain the DIALCOM electronic mail system with most States and with the North American Electric Reliability Council.

Several plans to support defense preparedness are under development, including National Oil Board plans to support the U.S. commitment to the NATO Wartime Oil Organization. We are also developing plans to implement the Defense Production Act to ensure energy supplies for defense needs.

We are planning for and testing various programs, including: IEA sharing system, NATO oil supply scheme, civil preparedness programs, and Continuity of Government. Last fall we participated in DOD's FUEL-EX and we have just finished testing our Continuity of Government Plan in FEMA's REX-82 Alpha civil/military preparedness exercise and are preparing to test the Strategic Petroleum Reserve drawdown management process.

Mr. Chairman, as the Committee knows and as has been reported in the media, Secretary Edwards announced in a formal statement and a press release that the Department of Energy was cooperating fully with the Department of Justice in an ongoing criminal investigation of allegations that there had been substitution of waste oil for crude oil purchased for storage at the Bayou Choctaw SPR facility in the late 1970's. My staff and I have previously discussed this with several Members of Congress and the committee staff. I would like to review briefly these allegations currently under investigation by several Federal agencies which may ultimately lead to criminal charges. Anyone found responsible will be prosecuted vigorously.

I would emphasize that even if the investigation proves these allegations to be true, the allegations affect only a very small part of the total program. Only one relatively small cavern is involved, and only deliveries which were made by barging in 1977-1978. The total oil barged to this site was 9 million barrels, therefore, in the worst possible case, less than 4 percent of the crude oil now stored in the Reserve may be affected. Barging of oil to the SPR storage sites was used during 1977-1978 and was terminated when a pipeline transportation system from marine terminals to the SPR sites was completed. No oil has been barged to a SPR storage site since December 1978.

There have been tests of the oil in storage at the single cavern in question. These tests were conducted under the supervision of the investigative agencies. The results will be furnished to these agencies and then eventually to the SPR organization.

We have recently verified by standard oil specification tests the quality of crude oil in the other SPR caverns which have been filled with crude oil. In each case the tests demonstrate that the oil fully meets our specifications. Moreover, I am authorized by the Department's Inspector General to state that no evidence has been found that suggests that any other facility has received substandard oil, and that there is no credible evidence that oil may have been stolen, substituted or otherwise compromised at any other facility.

We have reexamined our security procedures and our current methods for receiving and checking the quality of each load of crude oil purchased and delivered to the Reserve. We are absolutely confident that these procedures and test methods assure that the oil placed in the Reserve both meets our specifications and will be available to meet every requirement that may be placed on the Reserve in the future.

Secretary Edwards and I have every confidence in the integrity of the overall SPR program and the quality of the crude oil in the Reserve.

This concludes my remarks and I would be pleased to respond to the Committee's questions.

Senator NICKLES. Thank you very much, Mr. Vaughan.

Mr. Carr, Department of Justice.

STATEMENT OF HON. RONALD G. CARR, DEPUTY ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, DEPARTMENT OF JUSTICE, ACCOMPANIED BY PATRICK A. MULLOY, SENIOR ATTORNEY, ENERGY SECTION, ANTITRUST DIVISION

Mr. CARR. Thank you, Mr. Chairman. It is an honor to appear before this committee to testify on behalf of the Department of Justice in support of S. 2332.

My prepared statement to the committee outlines the reasons for the Department's support of the bill, which would extend the antitrust defense in section 252 of EPCA from June 1, 1982, to July 1, 1983.

In that prepared statement I noted that we see no competitive problems in granting a longer extension if that should prove desirable.

The agreement on an international energy program, which created the IEA in 1974, established a cooperative system among member countries to handle oil supply disruptions and an information system to enable governments to monitor the oil market on a continuing basis.

It was understood by the countries involved that it could be necessary to seek advice and assistance from the international oil industry in order to implement the agreement's allocation and information provisions.

In order to secure effective assistance from U.S. oil companies, Congress in 1975 provided participating companies a limited antitrust defense for certain actions taken in furtherance of the IEA's mission. This antitrust defense is limited in three important ways:

First, actions by companies must be taken in the course of implementing only the allocation and information provisions of the IEP.

Second, such actions must also be taken only in the context of developing or carrying out an approved voluntary agreement or plan of action.

And, third, such actions must not be taken for the purpose of injuring competition.

At that time, Congress also established procedural antitrust safeguards to govern the participation of U.S. oil companies in IEA activities. It also directed the Attorney General and the Federal Trade Commission to monitor activities under the antitrust defense in order to promote competition and to prevent anticompetitive practices and effects.

The Department has done that, and I am here to reiterate what we have stated on numerous occasions in the past, namely that we have found no adverse impact on competition from the conduct of meetings, the subjects discussed or any other oil company activities authorized under section 252 of EPCA.

I also want to briefly mention three proposed amendments to S. 2332. Two of these amendments deal with the strategic petroleum reserve drawdown plan and domestic contingency planning and do not relate to the antitrust defense. I defer to my colleagues from the Departments of State and Energy on those matters.

I do want to address the other amendment, number 1353, which provides that the section 252 antitrust defense shall not be effective with respect to IEA actions under the "Decision on Preparation for Future Supply Disruptions" adopted by the IEA's Governing Board on December 10 of last year.

That Decision concerned actions which governments, not companies, might take to deal with oil supply disruptions, that while creating market uncertainties, did not reach the 7-percent level required to trigger the IEA's emergency allocation system.

The Department of Justice participated in the formulation of the administration's position on the Decision. Nothing in it commits the U.S. Government or oil companies under its jurisdiction to take any actions not currently provided for within the allocation and information provisions of the IEP, which are, as I stated previously, the only activities covered by the section 252 defense.

I also do not believe the proposed amendment is necessary with respect to making the antitrust defense in applicable to questionnaire A and B submissions except when 7-percent level oil shortage that triggers the IEA's emergency allocation system is in effect.

The Department of Justice must approve the submission of company specific disaggregated data in QA's to the IEA Secretariat. It has been our consistent position that we will not extend the antitrust defense to such submissions except when an emergency has been triggered, or, for the purpose of determining whether a general or a selective emergency trigger needs to be pulled. ,Z(UPDATE) No. Name Date—J. 96-771—Folio 91-106 Ext. A771A.006%000.0

The proposed amendment could be interpreted to interfere with the IEA's legitimate need to have access to such information in a period of oil shortages when the Secretariat has to determine whether to activate the sharing system.

Mr. Chairman, that concludes my prepared remarks. I would, of course, be happy to answer any questions you or members of the committee may have.

[The prepared statement of Mr. Carr follows:]

STATEMENT OF HON. RONALD G. CARR, DEPUTY ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, DEPARTMENT OF JUSTICE

Mr. Chairman and Members of the Committee.

It is an honor to appear before this Committee to testify on behalf of the Department of Justice in support of S. 2332, a bill to extend the expiration date of Section 252 of the Energy Policy and Conservation Act from June 1, 1982 to July 1, 1983. That section provides a limited antitrust defense to United States oil companies participating in voluntary agreements to assist in carrying out the allocation and information provisions of the Agreement on an International Energy Program (IEP).

As you know, this Agreement grew out of talks among a number of oil consuming nations in the aftermath of the 1973-74 Arab oil embargo. The United States and other industrialized nations decided that coordinated action aimed at minimizing the effects of potential oil supply disruptions was needed. Consequently, after lengthy negotiations, the United States and 15 other countries entered into the IEP Agreement in Paris on November 18, 1974. Since that time the total number of participating nations has increased to 21.

The IEP established the IEA as an autonomous institution within the Organization for Economic Cooperation and Development (OECD), which is an international organization headquartered in Paris and composed of mainly Western European countries, Canada, Japan and the United States. The IEA is responsible for coordinating the information gathering and emergency oil sharing systems created by the IEP. It is directed by a Governing Board comprised of representatives of the IEA Member Governments, and maintains a multinational staff, the IEA Secretariat, which is responsible for the daily operations of the Agency.

The centerpiece of the IEP Agreement is a cooperative system to handle oil supply disruptions. Use of the system can be triggered when either an individual nation or the IEP signatories collectively experience a shortfall in oil supplies that is equivalent to seven percent or more of a base period final consumption calculated under procedures agreed upon by member nations. 1/ When put into action, the system involves the equitable sharing of oil according to a carefully constructed formula set forth in the IEP. During supply uncertainties, a special emergency information system (the Questionnaire A & B system) is activated and oil companies and governments supply the IEA data on oil production, consumption, imports and exports. This information is used to determine whether to trigger the sharing system and, if triggered, how to allocate available oil. The initial responsibility for the fuller development of the

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1/ Base period final consumption (BPFC), for shortfall measurement purposes, is calculated for the most recent four historical quarters for which data are available. A country's BPFC includes indigenous production, plus imports, less exports, plus or minus stock changes of crude oil, NGL, feedstocks, and products. Where a country has been building stocks over the base period, the stock change is subtracted in the equation. Conversely, where a country is drawing down stocks over the base period, the stock change is added.

IEA's emergency measures, set forth in the IEP, has been delegated to its Standing Group on Emergency Questions (SEQ), made up of representatives from participating countries.

The IEP also provides for the establishment of a general or non-emergency information system to enable governments to monitor the oil market on a continuing basis. The governmental IEA Standing Group on the Oil Market (SOM) has been delegated the primary responsibility for designing and implementing these non-emergency information systems. Current systems are designed to enable IEA Member Governments to keep track, *inter alia*, of crude oil and petroleum product prices and costs, as well as volumes and sources of imports into IEA countries.

The IEP clearly envisions that it would be necessary to seek advice and assistance from the international oil industry in order to implement the emergency allocation system and the special (emergency) and general (non-emergency) information gathering systems set forth in the international agreement. Three oil industry groups have been established by the IEA to assist it and various of its governmental standing committees in carrying out their duties. Principal among these is the Industry Advisory Board (IAB), which is composed of seventeen representative international oil companies from Europe, Asia and North America. The IAB's principal function is to advise the SEQ on the design and implementation of emergency oil allocation procedures, including the emergency information systems needed to determine when to trigger and how to allocate oil under such procedures (QA's and QB's).

Another industry group, the Industry Working Party (IWP), assists the SOM in implementing non-emergency related information systems in the international oil market as set forth in Chapter V of the IEP Agreement. Under this system, the Participating Countries are required to make available to the Secretariat precise data previously identified by the governmental SOM, on the various subjects relating to oil company operations set out in Article 27 of the IEP Agreement. Such information is intended to enhance understanding by IEA governments of developments in the international oil market. In this regard, the IWP assisted the SOM and Secretariat in establishing quarterly reporting systems dealing with crude oil prices, product prices, crude oil costs, historical financial information and capital realization.

A third industry group assisting the IEA is the Industry Supply Advisory Group (ISAG). It is made up of representatives from IEA Reporting Companies and is responsible for industry participation in the emergency oil allocation system. It will, under the guidance of the Executive Director of the IEA, coordinate voluntary rearrangements of supplies by Reporting Companies, including independent development of transactions in order better to direct supplies to meet IEA-calculated supply rights. The ISAG has a manager who is responsible for its overall direction with guidance from the IEA.

Extensive industry involvement contemplated in the IEP raised possible antitrust risks for U.S. oil companies called upon to assist the IEA in carrying out the functions given to it by governments. In order to secure effective participation by U.S. oil companies, Congress in 1975 provided participating companies a limited antitrust defense for certain actions taken in furtherance of the IEA's mission. This antitrust defense is limited in three important ways:

> (1) Actions by companies must be taken in the course of implementing only the allocation and information provisions of the IEP; 2/
>
> (2) Such actions must also be taken only in the context of developing or carrying out an approved voluntary agreement or plan of action; 3/ and
>
> (3) such actions must not be taken for the purpose of injuring competition. 4/

In addition, approval of a voluntary agreement or plan of action by the Attorney General, after consultation with the Federal Trade Commission, is required before a voluntary agreement or plan of action may be carried out. 5/

In addition to the direct limitations on the extent of the antitrust defense, EPCA imposes numerous antitrust safeguards upon the participation of U.S. oil companies in IEA activities. These safeguards include prior notification of industry

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2/ 42 U.S.C. §6272(a).

3/ 42 U.S.C. §6272(f)(1).

4/ *Id.*

5/ 42 U.S.C. §6272(d)(1).

meetings, attendance by U.S. Government observers, and the compilation of full and complete records of such meetings, including verbatim transcripts where practicable. In addition, the Attorney General (along with the Federal Trade Commission) is directed to monitor the development and carrying out of voluntary agreements and plans of action authorized under Section 252 of EPCA "in order to promote competition and to prevent anticompetitive practices and effects while achieving substantially the purpose [of the allocation and information provisions of the IEP]." 6/

The Department of Justice has given a high priority to the responsibilities Congress gave us concerning oil company participation in the IEA and has devoted substantial resources to carrying them out effectively. Since the establishment of the IEA, the Department of Justice has submitted ten reports to Congress on the activities of U.S. oil companies undertaken in relation to the IEP: the first pursuant to Section 708(e) of the Defense Production Act of 1950, as amended, and the next nine pursuant to Section 252(i) of the EPCA. Each of these reports was based upon our direct surveillance of most, and review of all, industry activities undertaken in connection with the Voluntary Agreement and Plan of Action to Implement the IEP which first went into effect in 1975. We have consistently found that

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6/ 42 U.S.C. §6272(e)(1).

the antitrust provisions in section 252 of the EPCA, the regulations promulgated thereunder, and the Voluntary Agreement itself have been adequate safeguards against any possible adverse impact on competition and small business that might result from oil company participation in IEA activities. We have discerned no such impact to date.

Our experience in monitoring industry activities under Section 252 strongly suggests that if the antitrust defense provided by Section 252 were not available, participating U.S. oil companies might very well reduce or discontinue their assistance to the IEA. Without U.S. company participation, the emergency oil sharing system of the IEA could not function effectively. Thus, so long as there remains a need for intergovernmental cooperation on international energy matters, the statutory defense for U.S. oil companies participating in IEA programs should be continued. Of course, such a defense should continue to be limited as provided in Section 252. Accordingly, the Department of Justice supports S. 2332, which extends the effective date of Section 252 from June 1, 1982 to July 1, 1983. I should also add that we see no competitive problems in granting a longer extension if that should prove desirable.

Possible Amendments to EPCA

I also want to address the three proposed amendments to S. 2332. Two of these amendments (Nos. 1352 and 1354) deal with the Strategic Petroleum Reserve Drawdown Plan and domestic contingency planning, and do not relate to the antitrust defense. The Department of Justice defers to the views of the Departments of State and Energy on those matters.

The other amendment (No. 1353) provides that the Section 252 antitrust defense shall not be effective with respect to IEA actions under the "Decision on Preparation For Future Supply Disruptions" adopted by the Governing Board in December 1981. This Decision concerned actions which governments might take to deal with oil supply disruptions that, while creating market uncertainties, did not reach the seven percent level required to trigger the IEA's emergency allocation system. These are referred to as "subtrigger disruptions".

The Department of Justice does not believe that amendment No. 1353 is necessary. In its _Eighth_ and _Ninth Reports_ 7/ to Congress reviewing the Voluntary Agreement, the Department reported on various proposals that had been made to expand the IEA's authority to deal with subtrigger disruptions. We noted that both industry and the U.S. Government had concluded that the antitrust defense in Section 252 was applicable only to the allocation and information provisions of the IEP Agreement and did not cover company actions to carry out "sub-crisis" allocation schemes. Thus, it applies only to allocation activities contemplated under Chapters III & IV of the IEP provisions, _i.e._, those necessary to develop plans to deal with

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7/ _Eighth Report_ 43-47; _Ninth Report_ 34 and Appendix I pp. 3 and 4.

emergencies, to determine when an emergency exists, and to take actions in response to an emergency--with the term emergency uniformly defined by the 7 percent trigger.

Our Tenth Report, now in preparation, will provide a complete description of the events that led to the IEA Governing Board's December 10, 1981 "Decision on Preparation for Future Supply Disruptions". The Department of Justice participated in the formulation of the U.S. Government position on this Decision. Nothing in it commits the United States or oil companies under its jurisdiction to take any action not currently provided for within the "allocation and information provisions" of the IEP, which are the only activities covered by the Section 252 antitrust defense. In fact, the language of the Decision requires nothing more than monitoring of oil supply developments and consultation among IEA member countries in sub-trigger supply disruptions. The United States delegate to the December meeting stated for the record that "any action taken in response to future disruptions must be consistent with national law and the agreement on an international energy program." 8/ In short, this Decision does not commit the United States Government or U.S. oil companies to take any action inconsistent with our antitrust laws or policies.

8/ U.S. Statement On Preparations For Future Supply Disruptions Delivered By DOE Assistant Secretary Thomas At December 10, 1981 IEA Governing Board Meeting.

The Department also does not believe the proposed amendment is necessary with regard to Questionnaire A and B submissions (QA's and B's). As noted above, such submissions are part of the IEA's emergency allocation system in that they are used to determine whether the system should be triggered, and, if it is, as a basis for allocating oil. As noted in our Eighth Report, Section 5(b)(2) of the Voluntary Agreement provides that company-specific disaggregated data in QA's will not be submitted to the IEA without approval from the Department of Energy, as well as approval by this Department. It has been our consistent position that the "institution of monthly QA reporting by companies was justifiable under the IEP only after an emergency had been triggered, or, by extension, when a potential emergency existed which justified this form of data collection in the name of industry consultation under IEP Article 19.6, for the purpose of determining whether a general or selective emergency trigger need be pulled." 9/

During periods after the Iranian Revolution and then again after the Iraq/Iran war, the Department of Justice concurred in the U.S. Government clearance allowing U.S. oil companies to submit QA data to the IEA Secretariat. On each occasion after market conditions stabilized and the chance that the emergency allocation system would be triggered had passed, we recommended against clearance extensions, and QA submissions by U.S.

9/ Eighth Report p. 40.

companies were discontinued. DOE has not submitted disaggregated QB information to the IEA Secretariat when a clearance for QA submissions is not in effect.

We believe the clearance system set forth in Section 5(b)(2) of the Voluntary Agreement is the proper way to safeguard the submission of the confidential and proprietary information in QA's. Proposed amendment No. 1353 would interfere with the Secretariat's legitimate need to have access to such information in a period when it was trying to determine whether to activate the sharing system. We therefore oppose this Amendment.

Mr. Chairman, that concludes my prepared remarks. I would be happy to respond to any questions you or any members of the Committee may have.

Senator **Nickles**. Yesterday, Senator McClure discussed the extensive review which the committee has been conducting of the administration's energy preparedness program. At the outset today we want to publicly thank the officials before us and their staffs for their assistance and cooperation in that continuing review.

The committee's intention is to proceed constructively in cooperation with the administration to seek to insure that the United States has a fully adequate energy emergency preparedness program.

I want to thank these officials for their efforts. I appreciate the indepth review that each of you has made pertaining to the amendments specifically and to the IEA in general.

Mr. Hormats, yesterday as I became more aware of some of the IEA agreements that were made, I also became a little concerned over the December 10 IEA agreement on subcrisis management.

Could you repeat your review of the agreement? And, Mr. Thomas, I am going to extend this question to you, too. I am concerned about our commitment to IEA regarding mandated sharing where the IEA would come in and implement sharing in the triggered or in the subcrisis situation. Mr. Hormats?

Mr. **Hormats**. Let me just say that that language was carefully crafted and provides for nothing more than monitoring of oil supply developments and consultations among IEA member countries in subtrigger supply interruptions. It does not commit IEA countries in advance as to actions which they might take in response to such interruptions.

Indeed, it affirms the primary importance of allowing market forces to operate as a means of improving the balance between supply and demand for oil in short supply.

In any case, as noted by the U.S. delegation in a statement—which I believe you have a copy of—at the time of its adoption, any actions taken in response to future disruptions must be consistent with national law and the agreement on international energy program.

Under no circumstances could the United States be forced to take actions under this decision which run counter to U.S. law or to U.S. policy. In short, the decision does no more than flesh out the details of the IEP. There are no grounds whatsoever in my judgment and, I believe, that of my colleagues, to fear that this decision provides a basis for increased IEA intervention in the oil market.

And indeed we have made it very clear that we would simply consult under that without any predetermined notion as to what would be done in a subcrisis situation.

Senator **NICKLES**. I appreciate your response, and on the surface it would seem that that would placate my concerns. But let's take an example. Let's say we were in a subcrisis situation with a 5-percent shortage, and we were negotiating in Paris, and several of our allies were saying that a sharing program needed to be implemented today, and the United States was basically the only one that wasn't implementing a program and we were the only country that had a significant SPR accumulation.

Let's say that there was a great deal of pressure being asserted by the participants in IEA diplomatically. For instance, let's say that Greece says, well, if you want to keep your bases, we need your oil. Or what if you had a situation where other participating countries may use some diplomatic leverage to basically "require" intervention in regard to the domestic market.

Do you see that as a possibility?

Mr. **HORMATS**. One can never eliminate the fact that there will be pressures, as there have been during periods of past supply interruption.

But I would simply emphasize that we have made no such precommitments to anything in response to any particular subcrisis situation. Clearly, whatever action we took would be based on a decision at that time, and we have made no commitments at all to engage in any sort of sharing arrangement in a subcrisis situation.

And indeed I think, as our colleague from the Justice Department has indicated in his testimony, we are not bound by that declaration to do anything or compelled to do anything in that situation.

Senator **NICKLES**. Well, in the realm of negotiations, I am concerned about this agreement as it seems to possibly draw us closer and closer to a very untenable situation that could possibly lead us to somewhat abdicating our free market response to the problem.

Mr. Thomas, I will slide this question over to you, the basic agreement under IEA was, of course, before my time and actually before this administration's time, but this administration's agreement with regard to subcrisis, is of more concern to me. I think the administration, as Mr. Vaughan pointed out, too, has responded well as far as the domestic allocation program, and I would certainly be very supportive of that.

Conversely, if I don't want a domestic allocation program, I certainly don't want to be forced or compelled into an allocation program by other countries. Would you care to respond to this?

Mr. THOMAS. Mr. Chairman, my understanding is that the administration not only shares the views that you have just presented, and I believe that is the position that the United States took on December 10 in Paris, the Governing Board session, is consistent with that.

In particular we do not want to have imposed on the United States by this multilateral or, for that matter, any other multilateral organization, dictates as to what we would have to do.

We have a treaty arrangement whereby we have agreed under certain rather well-defined circumstances when we will agree to share and undertake other activities that I indicated in my testimony.

But in this particular case I think as my colleague, Mr. Hormats, has stated here, we do not intend to nor are we at this time bound in any way through the international energy program nor certainly through the December 10 decision, as it were, to do anything other than consult. We have agreed to talk. We have agreed to share information in terms market conditions and the information which we have, as has happened in the past. We would presume that that would continue in the future.

However, if the United States unilaterally, of course, elected to assist any one of its friends or allies in the world on a unilateral basis, it certainly, of course, should be free in its foreign and domestic policy considerations to do just that.

By the same token, Mr. Chairman, we have no intention at this point nor have we agreed to in any way be bound by the IEA or the international energy program to take any such action. So nothing that could happen there at this point would indeed force the United States to take an action other than solely to consult.

Senator NICKLES. So under this IEA, or rather, under the December 10 agreement, nothing would mandate that we would be in the crude sharing business?

Mr. THOMAS. That is correct, sir.

Senator NICKLES. OK. Looking at your statement, I think you mentioned that under IEA agreement we agreed to hold emergency reserves equivalent to 90 days, and then to share the burden of oil supply shortfalls of 7 percent. This is the equivalency of a treaty that we have with participating countries. So we actually have a treaty that if the shortfall hit the trigger point of 7 percent "we would share the burden of oil supply shortfalls with participating IEA members"?

Mr. THOMAS. Yes, sir.

Senator NICKLES. So, in other words, we would have to violate that existing treaty if we didn't respond, and I am not talking about December 10, Mr. Hormats, is that correct? I see a little contradiction. I like what Mr. Thomas has said and I like what you have said.

Mr. HORMATS. I don't think that there is a contradiction. The difference is between a subtrigger situation and a trigger situation.

The treaty obligation of the international energy program, insofar as sharing is concerned, relates to situations of an above trigger rather than a subtrigger shortfall.

Mr. **Nickles**. OK. So under the existing IEA agreement if a shortage above 7 percent hits then we already have an agreement with participating members, that we will share that shortfall?

Mr. **Hormats**. Will share.

Senator **Nickles**. Let's carry that a little bit further, and excuse me for gaining an education at your expense, but how would that work? For example, let's say that the shortfall is not 7 percent in the United States. It may be an aggregate between IEA members at 7 percent. And maybe the other states didn't set up a SPR, maybe the other states sat on their hands; maybe they had too restrictive price control mechanisms on production; maybe they stopped nuclear production; maybe they really have caused their own problems somewhat like we have done in the past in our country.

Should we help these countries solve their problems at the expense of Americans?

Mr. **Hormats**. Well, according to the formula, which we can give you (it is a relatively complex formula), countries are required to undertake equal reductions in consumption. So that, in other words, if there were a shortfall, and country X did not go along with a domestic plan which in effect reduced its consumption, then it would not be fulfilling the obligations that it had undertaken in the international energy program.

So there is built into the IEP a provision not only for sharing, but also for reducing consumption.

In addition, these countries have obligations to build and hold stocks. That is also a jointly shared responsibility.

Senator **Nickles**. Participating are the countries complying with this requirement to build and hold stock?

Mr. **Hormats**. Yes. At every meeting that Secretary Thomas and I go to, we urge at great length these countries to live up to their stock obligations and, express our judgment that it would be wise to exceed them, because these stocks are very important as a first line of defense. I am pleased to say that, almost without exception, all the major countries in the IEA have over 90 days of supply relative to 1980 imports.

Senator **Nickles**. Let's say we have "the trigger mechanism," we are in the crisis situation, we are over 7 percent, and we have the shortage. Who do we have representing us on the IEA? If we are going to comply with our existing agreement and have a worldwide allocation program, how is this going to be implemented?

Mr. **Thomas**. Mr. Chairman, let me respond to that perhaps in the following fashion: First of all, the crisis, as it were, or this extreme shortfall will not occur instantaneously. There is a long trail of stocks on the high seas, for example. Certainly there are only a selected number of oil exporting countries that are likely to be hit under the worst of conditions in here, unless there is an actual all-out large scale war on a global basis.

And, therefore, this is one of the key elements that both Mr. Hormats and I addressed in our testimony here, leading from a subtrigger to a trigger condition. That is to say, we will see that shortfall occurring, we have identified or we certainly will identify where the curtailment of oil supply has occurred, we will be able to identify through the good offices of the oil companies and the International Energy Agency as well as our own resources who is going to be impacted by that shortfall, who has contracts, what companies have contracts with the country, for example, that has now ceased to export.

And so, therefore, we can begin to determine where the oil shortfall will occur, which member country, and to what degree that shortfall will ensue.

So this will occur over days, weeks, and literally into months before you actually have any one country having the system triggered by having failed to get the level of supplies, oil imports, that would mandate, then, the triggering of the system.

As this occurs, we are looking simultaneously to the oil stocks held both internationally by the oil companies, that is to say, on the high seas, other sources of oil that are available, as well as the stocks held by a given country, their demand constraint programs, which they would have to impose likewise under the programs which presently exist.

So that we would gradually move to a condition of allocation over a period of time. And, of course, it would hit some countries before it would hit others. For example, one country in particular, the United Kingdom now, is essentially an oil exporting country. In that regard it no longer fits in some respects the criteria that existed at the time; that is to say, it was a major oil importer at the time that the program was initiated.

So that the burden of the shortfall of oil supply will fall differently on different countries and at different times. Certainly the United States would fall under such circumstances.

And the way that the program is structured at this time and our participation in it would initially be that of monitoring and consultation. The two disruptions of some significance that have occurred in the past decade did not in fact end up triggering the system itself because supplies and stocks, through consultations, were able to be moved to the most affected countries to alleviate their problem without ever having triggered the full system itself.

That, of course, is something that we believe we would want to not have happen unless the shortfall was very, very substantial and indeed called for all countries to actively participate on a broad base basis into an oil sharing scheme.

I am not sure that fully answers your question, Mr. Chairman.

Senator NICKLES. It does, but I want to carry this a little bit further, Mr. Thomas. In the event, let us say, that we have gone through that and we are talking about a triggered or crisis circumstance, where we have participating countries, as you mentioned, Great Britain or others, who might possibly have their hands full with whatever problem, and so they say, no, we are not sharing.

So, they decide to void the treaty, and maybe the United States says, well, wait a minute, we are not going to share our SPR.

So, I could see a dissolvement or if you didn't have an out, then I see all kinds of chaotic movements, too. I am concerned about that possible event. I appreciate the administration trying to take every circumstance to prevent this from happening, and I applaud it, but I also have a strong reservation about when it is implemented as to whether we would basically have an IEA Governing Board saying here is our international crude oil sharing program, which could be very detrimental to this country.

Mr. HORMATS. Well, let me just make a general observation about the IEA, Mr. Chairman, because I think that might help to address some of your concerns. This institution was developed, as you will recall, during the very chaotic period of 1973–74, when there was a great threat that a scramble for oil would both disrupt our economies and undermine the foreign policy efforts of the United States in the Middle East.

We have found that, while not perfect—and I don't think any sharing vehicle could be perfect—this is a vehicle which does provide for a substantial measure of allied cohesion. And I think that while there would be pressures in the event of major problems in the oil area, this vehicle at least gives us a good shot at managing those pressures in a way which assumes a fair allocation of the burden.

Also, I would point out that we are under no obligation at all to share SPR oil with other countries. There is no such——

Senator NICKLES. Would we primarily be mandating a reduction in our imports?

Mr. HORMATS. Yes.

Senator NICKLES. If we were importing, say, 5 million barrels per day, then would we be voluntarily agreeing that we would only import 3 million barrels a day?

Mr. HORMATS. Yes. The primary contribution would be from diversion of imports, just as you indicate.

Senator NICKLES. I do not want to monopolize the questions. Mr. Vaughan, I think you mentioned on SPR that the administration set out in 1979 to devise a drawdown plan for SPR. It wasn't this administration, but there is a plan for the drawdown of the SPR. Is that correct?

Mr. VAUGHAN. Mr. Chairman, the statute authorizing and creating the strategic petroleum reserve required the drafting of a plan, so-called strategic petroleum reserve drawdown plan, and the filing of that plan in a formal sense with the Congress. That plan was to lay out the various drawdown mechanisms, and the Congress had the opportunity to nonconcur if it so chose.

That plan was drafted by our predecessors, the previous administration. It was duly filed. And both Houses of Congress had the full statutory period of time in which to nonconcur, seek changes, et cetera.

And that plan, if I may briefly describe it, allows the President a full range of alternatives for utilizing the SPR—from a totally free auction system to a full price and allocation control system.

In view of the fact that the plan allows the administration and President maximum flexibility, the administration's position is that its predecessors met the statutory requirement, and we do not contemplate filing a new plan, and of course, do not seek a legislative mandate that we draft a new plan.

Senator NICKLES. Basically the existing plan, then, gives you some flexibility that you basically want to keep, but if you had to develop a plan, that would somewhat limit your options in the event of the shortage?

Mr. VAUGHAN. Yes, sir.

Senator NICKLES. Mr. Vaughan, you mentioned earlier that for budgetary reasons you didn't want to be mandated into a fill rate of 300,000 barrels per day. What was the fill rate you averaged last year.

Mr. VAUGHAN. We averaged, Mr. Chairman, last year, slightly over 300,000 barrels a day.

Senator NICKLES. Did you average that for the entire year?

Mr. VAUGHAN. I believe that it was 295,000 for the fiscal year.

Senator NICKLES. How much did this cost? Do you happen to have these figures close as hand?

Mr. VAUGHAN. We can provide you that for the record.

Senator NICKLES. I would appreciate it if you would. Actually, let me extend that request. Could you provide for the committee, what Congress has done, how much oil has gone into SPR, and how much money it spent in SPR for each of the past years?

We have been able to pick up bits and pieces from various testimonies. But if we just take a history from the date that we started putting money in oil into the ground and the amount of money and the amount of barrels, if you could provide that for the committee, it would be appreciated.

Mr. VAUGHAN. I would be glad to.

Senator NICKLES. Although last year you came close to 300,000 barrels' fill rate per day for SPR, you have already said that you don't want to be mandated into that this year. You mentioned budget constraints as one reason and permanent storage capacity as another, Am I correct?

Mr. VAUGHAN. Let me explain, if I may, Senator, what went on in the past. When this administration came into office there was a backlog of unfilled capacity that had been created. And this administration quickly adopted the policy of filling the strategic petroleum reserve to permanent capacity.

The program decision and planning in early stages had been that we should use permanent storage and that the most efficient form of that storage was salt domes or solution mines.

The administration, as I say, when it came into office, found considerable excess capacity that had not been filled and immediately proceeded to fill at a high level. Thus, the strategic petroleum reserve was filled to existing capacity.

The commitment now is to fill to existing capacity over the next phases of expansion throughout the rest of the program.

Senator NICKLES. What type of limitations do you now have on existing permanent capacity? Are you at capacity or close to capacity?

Mr. VAUGHAN. We this year, for example, will be filling at an average of under 200,000 barrels a day because of capacity constraints. Next year it will be slightly over 200,000 barrels a day, again because of capacity restraints.

I would point out to you that those capacity constraints are the results of budget decisions made and concurred in by the Congress 3 years ago, 2 years ago and 1 year ago. And so you fixed what your permanent capacity would be. And it is the administration's policy to fill to that limit.

Now an alternative suggested by some is to go above that in reflecting the marketplace. And while that has great appeal, certainly great appeal from the basic objectives of the program, we are faced with severe budget constraints. And while I am free to admit to you that I recommended that we go at a higher level of fill when planning the current budget and the future one. Of course, I am used to having a boss that has other priorities and sees things such as defense spending and entitlements. He has to have a broader view with limited resources. I understand that decision.

Senator NICKLES. So we have basically two constraints, then. Permanent capacity is one constraint, and budget as another constraint?

Mr. VAUGHAN. That is correct, Senator.

Senator NICKLES. On the budget aspect, I don't know if anybody has been able to find yet the amount of money that we spent on SPR for last year. But what is in the budget now, as proposed by the administration for SPR, say, in 1982 and 1983, this year and next year?

Mr. VAUGHAN. For fiscal 1983, Senator, it is $2.3 billion.

Senator NICKLES. If we went at the 300,000 barrels per day fill rate, what would that increase the budget authority to?

Mr. VAUGHAN. It depends on how much you advanced and for what period of time, but if you increased the 300,000 barrels a day to the 500 million level, it would be another $3 billion, and the authority to use interim storage in between.

Senator NICKLES. Let's review that. I think when we were discussing that in your original budget request for the Energy Department, we were talking about a fiscal year 1983 request of $2.1 billion for SPR, that was if I remember the administration's request, and we added $1.6 billion so we could go up to 300,000 barrels per day. So we are talking about actually $3.7 right at $4 billion for SPR, if memory serves me correctly.

So I was thinking that we are talking about basically $1.6 billion, maybe $1.7 billion, depending on the price of oil, which I think has lowered since our calculation. But it might be a little less than that. If we went at 300,000 barrels per day, it was my estimation that now we would probably be talking about something like a $1.5 billion difference.

I would like some confirmation on that. And if you don't have that figure now, if you could get it, because that certainly is part of the question. We need basically two areas of information. One, the capacity restrictions that we are faced with right now, can we take it? And, if we can't take it, where would we put it in the temporary facilities?

And the second is the budget constraints, what kind of additional money are we talking about?

Mr. VAUGHAN. The simple answer, Senator, is that if we go to a requirement of 300,000 barrels a day acquisition, we would definitely have to go for the next several years into interim or temporary storage facilities. The permanent ones simply do not exist. There is no physical way, of which we are aware, we could create them fast enough.

And at this point, to answer more specifically, the question on the specific numbers, I am going to ask Mr. Furiga, the Deputy Assistant Secretary for the strategic petroleum reserve, to address that question. And we will be more than happy also to follow up with details.

Senator **Nickles**. OK.

[The information referred to follows:]

SPR HISTORICAL OIL FILL AND FUND EXPENDITURES

[Dollars in millions]

	Oil fill (MMB)	Budget authority	Outlays
Fiscal year:			
1977 [1]	1.3	$440	$4
1978	45.9	2,704	752
1979	44.5	2,357	543
1980	1.1	−2,022	21
1981 [2]	106.5	3,205	3,541
1982 [3]	77.1	3,684	2,949
Totals	276.4	10,368	7,810

[1] SPA initial oil fill commenced July 1977.

[2] Includes entitlements BA and outlays.

[3] Estimated.

Mr. **Furiga**. In terms of cost to attain the 300,000——

Senator **Nickles**. Pull the microphone up, please.

Mr. **Furiga**. In terms of cost in order to attain the 300,000 barrels a day until you reach the 500 million barrel number, we have estimated that it would require $3 billion of the budget authority from 1985 and 1986 to be moved up into the 1983-84 time period, and approximately $500 million to $600 million for the interim facilities cost for that time period.

Senator **Nickles**. $500 million to $600 million for interim storage——

Mr. **Furiga**. Facility.

Senator **Nickles**. Which would basically be lost when the permanent storage came on?

Mr. **Furiga**. That is right. Some cost.

Senator **Nickles**. And the increase in dollar cost, How much would you have to move up budget authority for the increase in dollar cost?

Mr. **Furiga**. $3 billion we would estimate.

Senator **Nickles**. And you would move that up into 1983 and 1984 instead of having it over 1983, 1984, and 1985?

Mr. **Furiga**. And 1986.

Senator **Nickles**. And 1986.

Mr. **Furiga**. Yes.

Senator **Nickles**. OK. I note that there are additional questions that the chairman would like to have asked. I expect that he will be here in the near future, so he might be able ask those.

Senator Bumpers, did you have any?

Senator Bradley, do you have any?

Senator **Bumpers**. He is younger than me, but I am going to defer to him anyway.

Senator **Nickles**. And he is taller.

Senator **Bradley**. Thank you very much.

Senator **Nickles**. You are welcome.

Senator **Bradley**. Mr. Vaughan, you, as I understand it, have commissioned a study on revenue recycling. Could you tell me, what is the status of this study?

Mr. **Vaughan**. Senator, we have commissioned several studies into that question, and we have the reports from several of them in hand.

The main report we expect to be in hand in the early part of this summer, at which time we intend to convene inside the administration a multiagency consideration of the subject with the input of the several studies.

Senator **Bradley**. So when is the date that the studies will be completed?

Mr. **Vaughan**. The early part of the summer, June, July. July at the outside.

Senator **Bradley**. And there is now an interagency task force assigned to consider the question, or is that a hope of yours?

Mr. **Vaughan**. We will convene a task force that I have been using for some time on multiagency questions relating to emergency preparedness.

Senator **Bradley**. And when do you expect that that group might have acted upon the recommendations of the study group?

Mr. **Vaughan**. I would expect, Senator, that by June, we will receive the final study. I would then give some time for the study group or the task force to take a look at the several studies, and then have a series of discussions on the subject. I would expect that would take some 30 to 60 days, and then some administration position would be recommended.

Senator **Bradley**. What kind of questions are you interested in answering?

Mr. **Vaughan**. The form. An example is the form of distribution. Do you distribute it through the welfare system? Do you come up with some kind of stamp system? The mechanics are quite important.

What agency should control this? I think the administration feels that revenue recycling is much broader than energy, and that we in the Department of Energy should not have the sole authority or full control. We should be a participant in that discussion.

And I hope that our OMB and Treasury colleagues will be willing to take the lead in that area.

Senator **Bradley**. Can you assure me that any ultimate drawdown of the SPR will be done by auction?

Mr. **Vaughan**. That is certainly the policy authority and guidance we have in the administration from the Cabinet Council last summer. And at this stage while the drawdown plan, as I mentioned a few moments ago to Senator Nickles, provides broader authority, the Cabinet Council has given very firm guidance in terms of an auction or, I believe the wording was, a market oriented drawdown.

Senator **Bradley**. Will we see that in writing, or is this just what we hope will happen?

Mr. **Vaughan**. In a sense the Council's decisions, the Cabinet Council's decisions, do ultimately end up as an internal administration policy documeet that are written down. I don't really know quite how to respond to your question other than that.

Senator **Bradley**. Well, should the Congress mandate this or is there a document from the executive branch stating its intention so that the Congress wouldn't have to mandate it?

Mr. **Vaughan**. I believe, Senator, we have provided to the committee staff a number of documents concerning background of this kind of policy decision and outlook. I do not believe that a mandate in this area would be constructive.

Senator **Bradley**. OK. So based on those documents and your statement today, you still strongly prefer the auction as the way to go?

Mr. **Vaughan**. Yes, sir.

Senator **Bradley**. What about the study of the ultimate size of the SPR? That was due May 1.

Mr. **Vaughan**. It was filed with the Congress on May 1.

Senator **Bradley**. OK. In your testimony you seem to say that permanent underground storage facilities is dependent on the availability of suitably located, appropriately sized, and secure storage facilities. That is what you say on page 5 of your testimony.

In an answer you provided for the record at an earlier hearing, you said, and I quote:

> A preliminary survey of storage capacity for crude oil could be utilized as interim storage for the SPR reveal the current existence of 10 million to 40 million barrels of commercial underground storage capacity available for 1 to 3 years; second, surplus foreign flag tanker capacity worldwide is estimated at excess of 500 million barrels and; third, in excess of 7 million barrels of on-shore crude oil tank storage in the United States or Caribbean.

Now, is none of that surplus capacity suitably located, appropriately sized, and secure?

Mr. **Vaughan**. Senator, in the portion of the formal statement from which you initially quoted, I believe I am describing the basic outline of the strategic petroleum program and the administration's current policy on fill rate of that program, limiting it to permanent capacity. That is a budget decision. that I support and understand.

In answer to questions about interim and permanent storage, and I believe that is the second quote, there certainly is available, and we have developed, considerable information, much of which, in fact, maybe all of which we have furnished the committee staff, as to what we know at this stage about the availability of temporary or interim storage.

In short, there appears to be quite a bit available. I would hasten to point out to you that if we go to any form of interim or temporary storage, it will be somewhat less secure, meaning we probably would not provide nearly the site security and excess control.

Senator **Bradley**. You mean, we might not be able to prevent somebody from putting crankcase oil into those?

Mr. **Vaughan**. We would be more vulnerable in an interim or temporary situation, Senator, than we would in our own totally controlled facility. That is what I mean.

Senator **Bradley**. Do you have an objection to going the interim route, since there appears, by your own testimony, to sizable storage capacity available?

Mr. **VAUGHAN**. I believe, Senator, that there is considerable wisdom in reflecting and reacting to market realities of declining markets in a program.

At the same time, I fully appreciate the budget balancing decisions of my superiors. They have to look at other considerations. Heretofore they have decided that interim storage is not a wise decision.

Senator **BRADLEY**. Yes. Well, that is what I would like to just confirm, that it is a budgetary decision here.

Mr. **VAUGHAN**. There is no question that that decision is budgetary.

Senator **BRADLEY**. Is it true Coastal Corp. offered DOE a minimum of 20 million barrels of tanker storage?

Mr. **VAUGHAN**. We have had discussions with Coastal. I do not think that they would—I would not like to use the word offer in the procurement sense. They have available that quantity of storage.

Senator **BRADLEY**. Is it true also that it has come to DOE's attention that one chemical firm has available another 20 million barrels of storage capacity?

Mr. **VAUGHAN**. Yes, sir.

Senator **BRADLEY**. Is it true that one major oil company offered to ship oil in slow-moving tankers which could also serve as temporary storage?

Mr. **VAUGHAN**. Yes, sir, with the same exception of the term "offer." Simply I don't want to, by confirming that term, jeopardize any of those situations in the procurement sense.

Senator **BRADLEY**. No, that is not what I am aiming at. Do you agree with Mr. Ted Eck of Standard Oil of Indiana who says there are about 500 million barrels of storage capacity available in the world market and DOE could lease 300 million barrels if it so desired for as little as $1 per barrel per year?

Mr. **VAUGHAN**. While I have not specifically attempted to confirm in detail Mr. Ted Eck's testimony there, I would not be at all surprised that it is basically accurate. In fact, it would surprise me if it is not.

Senator **BRADLEY**. Is it true that DOE's RFP generated offers for over 200 million barrels of storage capacity in tankers?

Mr. **VAUGHAN**. First cut number, yes, sir.

Senator **BRADLEY**. Well, it appears to me that there is a lot of capacity around.

Mr. **VAUGHAN**. I fully agree with you, Senator.

Senator **BRADLEY**. The GAO will testify next. But I would like to jump ahead to their testimony, which I have seen, and ask your opinion of it. They estimate that if you fill a 300,000 barrels a day annually, you will need another 80 million or 90 million barrels of storage per year. Right?

Mr. **VAUGHAN**. Yes, I believe that is correct.

Senator **BRADLEY**. And there is clearly even in these exchanges that we have had today 80 million or 90 million barrels of storage out there, without question?

Mr. **VAUGHAN**. No argument.

Senator **BRADLEY**. So we come back only to a budgetary question?

Mr. **VAUGHAN**. That is right.

Senator **BRADLEY**. What is the difference between 200,000 and 300,000 barrels?

Mr. **VAUGHAN**. We are slightly under and we are furnishing, Senator Bradley, for the record a calculation in a response to Senator Nickles. Along those lines from what it would take moving us from where we are today to 300,000 barrels a day to achieve 500 million barrels, it would require $3 billion over the next couple of years in budget authority to buy oil, moved forward in the program, plus about $600 million, for facilities.

Senator **BRADLEY**. What are the lowest cost forms of storage? And I will give you existing steel tanks or existing oil tankers.

Mr. **VAUGHAN**. The lowest cost I believe, Senator, would be salt caverns. But, again, you are talking about——

Senator **BRADLEY**. They are not ready, though?

Mr. **VAUGHAN**. But I am really not ready except to give you ball park answers, because we have not gotten to a formal offer stage, and this is property of companies. They may have time frames or contract restrictions they wish to put on it we may or may not find acceptable. It is very hard at this stage to more than "guestimate" those numbers, although I think Mr. Furiga could give you some relative numbers that we have determined so far.

Mr. **FURIGA**. As Mr. Vaughan said, Senator, these are estimates. Some we have generated ourselves and some have been provided by——

Senator **BRADLEY**. You can provide the specific figures for the record. What I would like to know is simply which is the lower cost.

Mr. **FURIGA**. That is what I was getting at, Senator. Based on our estimates, floating storage, under various types of steaming, and charters is probably the cheapest.

Senator **BRADLEY**. Yes.

Mr. **FURIGA**. But existing salt cavern storage, that you mentioned, might turn out to be the cheapest under some scenarios.

Senator **BRADLEY**. Mr. Vaughan and even Mr. Hormats I can ask this question. It is the administration's commitment to fill the strategic petroleum reserve; isn't that correct?

Mr. **HORMATS**. Yes.

Mr. **VAUGHAN**. Yes, sir.

Senator **BRADLEY**. And you have made this decision based upon what you perceive to be a threat to our national security that a potential oil supply disruption offered; is that correct?

Mr. **HORMATS**. Exactly.

Mr. **VAUGHAN**. Certainly.

Senator **BRADLEY**. And, yet, you have said today that neither of those facts would merit a fill of 300,000 barrels a day, but only 200,000 barrels a day because of budgetary circumstances; is that correct?

Mr. **VAUGHAN**. Yes, sir.

Senator **BRADLEY**. Could you tell me, if you bought the extra 100,000 barrels a day today, with the price where it is, wouldn't you save significantly than if you even extended existing contracts at the prices, it is about $5 to $6 of difference per barrel, isn't it? Couldn't you finance this whole interim storage out of what you would save in the long-run by buying oil in a glut market?

Mr. VAUGHAN. In theory, Senator, and in theory I think it is probably soundly based, because I think most people looking at the oil market recognize that today it is down in price, expected to stay down for some period of time. The experts may argue over how long, whether it is tomorrow morning or 2 years.

I haven't heard many people talking about expecting the prices to stay down more than a couple of years at the outside. By the way, there are some who think they will go a little lower.

So that gets to be a rather standard estimate of what is going to happen in the marketplace. And so your savings really will be determined as a matter of fact after the market takes its course.

My expectation is that we would save some money.

Senator BRADLEY. You would save some money?

Mr. VAUGHAN. Yes, sir.

Senator BRADLEY. Yes; and you would save some money if you bought it now versus waiting 2 or 3 years to buy it when indeed—your guess is as good as mine, but if history is any gauge, the price might be higher?

Mr. VAUGHAN. I expect you are right. And I expect in 2 or 3 years it will be higher.

Senator BRADLEY. And basically if you bought the oil today, if you bought 100,000 additional by saving $5 a barrel is, what, $500,000 a day you are saving, right? $500,000 a day times what, 300 days in a year, rough figure? A lot of interim storage you can buy; isn't that correct?

Mr. VAUGHAN. That is correct.

Senator BRADLEY. Have you made this case within the administration?

Mr. VAUGHAN. That case, we are attempting to make that case at this time.

Senator BRADLEY. Good luck.

Senator NICKLES. Could I just——

Senator BRADLEY. Let me just discuss one more, and then I will be finished.

And I mean that, Mr. Vaughan, because I think you are a very strong advocate for this program. And I hope that your perception of our national security interests and also the budgetary questions will prevail.

Let me ask one last question, and Mr. Hormats can answer this or Mr. Vaughan. You said earlier that the oil companies don't have to participate in IEA. The question is, What could they do under the authority of section 251 of EPCA short of the 7 percent figure being reached?

Mr. VAUGHAN. Either way, Bob.

Mr. HORMATS. Go ahead.

Mr. VAUGHAN. I think quite frankly, Senator, that even in the absence of the theory that there is much that oil companies could do, provided they were persuaded to do so by the President. I think that is not something that should be lightly discounted.

However, jawboning in the national interest is considerable. But certainly Mr. Hormats has stated right, they don't have to cooperate in this program.

Senator BRADLEY. I know they don't have to, but what could they do?

Mr. Hormats. What could they do if there were no program?

Senator Bradley. What could they do under section 251 of EPCA, assuming that the 7-percent figure hasn't been reached? What could the oil companies do?

Mr. Hormats. In a situation where you do not have the invocation of 252 but only 251 because you don't have the invocation of the IEP?

Senator Bradley. Right.

Mr. Hormats. All right. In that instance the President could require oil companies to take action. There is authority in 251 to order companies to take action of a variety of natures, of a variety in terms of allocation of energy, I suspect.

Senator Bradley. What kind of actions could you ask them to take?

Mr. Hormats. I don't know. I have not personally looked into that in detail. I could look into that and get back to you in detail.

Senator Bradley. Mr. Vaughan?

Mr. Vaughan. He is absolutely right, sir. You could invoke section 251, which is a mandatory participation program, if you don't want to use jawboning or can't. And under that program you could compel U.S. oil companies to share oil with other countries as directed by the Federal Government.

It is a simple answer to that. And the authority to do that is there.

Senator Bradley. Thank you.

Thank you, Mr. Chairman.

Senator Nickles. Thank you, Senator Bradley.

I would like to follow up on that, Mr. Vaughan. Under section 251, if the IEA trigger mechanism is in effect and the administration agrees, 251 would apply and, as I read it it has allocation, it also has price controls, is that correct?

Mr. Hormats. Well, if you did not have 252 and only had 251, the problem would be this: You would then no longer have voluntary allocation by companies. The basis as we have pointed out in our testimony is the benefit of having companies to allocate oil voluntarily. In other words, they allocate on the basis of certain guidelines which are worked out.

251 absent 252 would effectively get the Government into the allocation game and have it make certain decisions. And it eliminates all of the arrangements which have been made to enable companies to sort of undertake——

Senator Nickles. To mandate conservation, to mandate going off one fuel to another?

Mr. Hormats. This is mainly on sharing. You would get Governments having to go in and do a lot more than they would otherwise have to do if you had 252. That is essentially the difference.

Mr. Nickles. I have a real problem with that, in case you couldn't tell. My objection to S. 1503 wasn't that this administration was going to do anything. I am not really worried about what this administration would probably do under IEA. However, this administration will pass away and we will have a different administration, a different State Department, and different people negotiating. I am very concerned about basically giving this type of, I would say, "blank check," to IEA with an administration that is willing to comply with that agreement under 251.

Now, the question is whether under existing law, under the trigger mechanism, that can happen under the subcrisis situation as negotiated under December 10?

Mr. **Vaughan**. Senator, I think the answer to that question is that cannot happen under existing law. To invoke section 251, I believe you must have the trigger situation—7 percent. I believe that is right.

Senator **Nickles**. Let me ask you an additional question. If U.S. Government, pursuant to the December 10 agreement, were to agree that the IEA Governing Board were to implement any so-called "measures to supplement market forces" as specified in the agreement to be applied on an IEA-wide basis, what would be the legal authorities of the Federal Government under sections 251 and the antitrust defense immunities under section 252 for any Federal orders to U.S. oil companies to implement such measures?

Mr. **Hormats**. The basic comment I think on your initial point on 251 is that, to my understanding it would not be, could not be, abused by being used in a subtrigger situation.

Senator **Nickles**. Nothing in the December 10 would allow that if the administration is willing to or inclined to agree with that?

Mr. **Hormats**. Exactly. In other words, you could not, nothing——

Senator **Nickles**. It would have to be in the trigger?

Mr. **Hormats**. It would have to be above 7 percent, the trigger.

Senator **Nickles**. That trigger?

Mr. **Hormats**. Exactly. So any subtrigger situation would not enable the administration to utilize 251 authority.

Senator **Nickles**. Are we making that clear in the law? Is this clear in the law to date, that nothing less than the trigger mechanism would allow that to take place?

Mr. **Hormats**. We can go over the law again, but my recollection is that that is quite clear. But we can certainly go over it again. I appreciate your concern and I think we understand that.

Mr. **Carr**. Maybe I could contribute. I am with the Justice Department, and I believe the law is quite clear. Section 251 of EPCA says that it can be used only when necessary to meet the obligations of the United States under the international energy program, which, of course, are limited, as Mr. Hormats described earlier, to the trigger situation.

Senator **Nickles**. So basically you are saying that it would not apply to anything less than the "trigger" of the 7-percent shortage, which is determined by the 'Governing Board of IEA'?

Mr. **Thomas**. Mr. Chairman, we stressed that, again, at the December 10 meeting in the formal statement that we made following the conclusion of these discussions. And, if I may, although I know the statement has been provided to the Committee in advance, our final statement on that was,

> Moreover, we note,

And this is the U.S. delegation speaking,

> We note the fact that any actions taken in response to future disruptions must be consistent with national law and the agreement on international energy program and that this may vary from country to country.

And therein lies the key element. Obviously domestic statutes in member countries may vary in many respects. In this regard we have stressed to our colleagues in the International Energy Agency that our laws are quite strict in this regard and that they would not permit us to participate in the fashion in which some of the other countries would have preferred to have us participate. We simply cannot do it under existing statutes.

Senator NICKLES. I understand your intention and I appreciate the "negotiating and bargaining stance" that you have taken. Because you were able to put that in, it gives us "maybe a safe out." But I am concerned that it be very, very clear in the law that that be the case and possibly with some legal interpretation in response to that to clarify that question. I think it is very, very important.

Welcome the Chairman.

Senator Bumpers, did you have some questions?

Senator BUMPERS. I thought you would never ask.

[Laughter.]

Senator BUMPERS. Mr. Vaughan, if I can find your statement here, just a second. Let me ask you a question while I am looking for your statement, there is something I want to ask you about.

Did you make a recommendation to the President to veto the Emergency Petroleum Allocation Act?

Mr. VAUGHAN. I certainly did, Senator.

Senator BUMPERS. You are proud of it, yes?

Mr. VAUGHAN. Yes, sir.

Senator BUMPERS. On page 2 of your statement you say,

> In addition to our commitment to the SPR, we want to encourage a buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives to private stock building.

What kind of disincentives are you working on?

Mr. VAUGHAN. The primary work on removing disincentives, Senator, was, in my judgment, the urging of that veto you mentioned. The primary disincentive was the threat that the Government would have the authority to reimpose price and allocation controls. We no longer have that threat at home, thanks to that veto.

Senator BUMPERS. Mr. Vaughan, based on what has happened in the past year with the decline of oil prices and what is about to happen over the next year, do you still think that is wise?

Mr. VAUGHAN. Yes, sir.

Senator BUMPERS. You don't think it would have been good for everybody to have filled their tanks in the past year?

Mr. VAUGHAN. Oh, it would have been wonderful if everybody would fill his tank, and we had a nation with every tank filled. And let me make sure that I have gotten across to you the administration's attitude on this point. In our judgment, the primary disincentive was the threat that the Federal Government could take away from him who stored in advance, the benefits of his prudence and farsightedness through price and allocation controls. That was the disincentive we were talking about primarily. It seems to me we carried through on that.

So in that sense we have encouraged private stocks by removing disincentives in the major way I think we could.

There are other measures that we have examined—tax incentives and that sort of thing. To be very candid with you, Senator, the deficit situation that this Government faces, makes it unlikely that we work propose such incentives for anyone, because we can't afford it.

Senator BUMPERS. Well, why do you think, then, that all the oil companies are engaged in a major effort to reduce their supplies, if your disincentive is working?

Mr. VAUGHAN. I think that they are just reacting to the realities of high prices and reduced demands. While that is unfortunate, we do not propose to step in and do anything about it.

Senator BUMPERS. Well, you say you are working to remove disincentives. The idea behind that is that you would encourage them to build big private stocks, and you tell me what your incentives for building private stocks are. And, yet, the oil companies are engaged in such a drawdown right now that the Sun Oil pipeline, which everybody in Arvansas is dependent upon, is dry of gasoline right now.

Mr. VAUGHAN. I don't want to appear at all to be flip, Senator, but while we are working in that direction, in no way did we guarantee and in no way can one guarantee that a proper set or balance of incentives and disincentives can necessarily imply success with the program.

I frankly don't think that there is a system that we could use to encourage oil companies to store sufficient oil, given demand versus the high cost of maintaining stocks.

Senator BUMPERS. Let me ask you this question: People often confuse the difference between imports and our total consumption. Now, as I understand it, imports have been running around 4 million, 4½ million barrels a day; is that correct?

Mr. VAUGHAN. I think they are down a little bit from that now.

Senator BUMPERS. What are they?

Mr. VAUGHAN. Order of three, perhaps.

Senator BUMPERS. Three million?

Mr. VAUGHAN. Yes.

Senator BUMPERS. That is a reflection primarily I would assume of the oil companies of this country reducing their inventories. Do you agree with that?

Mr. VAUGHAN. I think that——

Senator BUMPERS. Plus some reduced consumption, of course.

Mr. VAUGHAN. I think it is a reflection of three things, perhaps, Senator. In a continuous nature it is a reflection of a depressed economy. And it is certainly a reflection of continuously increased efficiency. And, third, it may be a reflection of some drawdown in stocks, which has occurred recently.

Senator BUMPERS. Here is a little document which I am sure you get in your office called "Energy Purchasing Report," dated April 30. It says:

> The past 2 weeks have seen a sudden and dramatic drop in inventory levels for motor gasoline and middle dissolates. As supplies continue to try and cope with the recession-induced demand slumps and persistently high interest rates, the situation

in the oil product markets is rapidly shifting from one of plenty to one of tightness. And if nothing else, spot prices are beginning to move upward in response.

All indications now are that the oil glut is gone. The glut has not been replaced by normalcy. The current condition of the market is worrisome.

Would you agree with that?

Mr. VAUGHAN. I have no basic disagreement with that, Senator. It is a tightening market here at home. And I think that is, considering the situation, quite normal. Reflecting, and I think as what you read, the realities of very high cost of interest and expectations of reduced demand.

Senator BUMPERS. Do you feel, Mr. Vaughan, that the country is in a better position now to deal with an embargo than it was in 1973?

Mr. VAUGHAN. Absolutely.

Senator BUMPERS. And do you feel that everybody who really needs energy will be able to get it in case of an embargo based on the marketplace concept?

Mr. VAUGHAN. Any time you are doing emergency planning, Senator, I think when you try to deal with every individual you will always fail. You have to strive to serve the greater majority. And then, of course, you have to try to provide some mechanism to deal with the problems that drop through.

I don't think you can——

Senator BUMPERS. What would you tell the American farmers right now who are going to make less money in 1981 than they made in 1933 about what is likely to happen to the supplies of diesel and gasoline in case of an embargo and what the price might be and how they can cope with that?

Mr. VAUGHAN. I would expect——

Senator BUMPERS. You like to eat and I like to eat; we want the farmers to have a supply. What would you tell them about the marketplace concept in case there is an embargo tomorrow?

Mr. VAUGHAN. I believe, Senator, that a marketplace concept is more likely to get more fuel to more users than any system the Government could operate.

Senator BUMPERS. You may get more fuel to more users, but that is not really the issue. The issue is: Does it get to the people who need it the most and need it the worst and most important to our economic survival?

Mr. VAUGHAN. I understand what you are saying there. I have a problem with who makes that decision. It seems to me that to allow me or some bureaucrat who works for me to decide who is most deserving is not a good idea.

Senator BUMPERS. Well, don't talk about the bureaucrats. Talk about Congress. We had an Emergency Allocation Act which dealt with that. I mean, you can use Congress if you want to interchange Congress with bureaucrats, you can do that.

Mr. VAUGHAN. Then let me say——

Senator BUMPERS. But there are some people who ought to be guaranteed a supply in case of an emergency, should they not? The Defense Department will get theirs, won't they?

Mr. VAUGHAN. Yes, sir.

Senator BUMPERS. Well, how about the farmers? They feed us.

Mr. VAUGHAN. I would not subscribe to the idea, Senator, that any groups in the economy should receive a guaranteed supply beyond those that are absolutely necessary. I believe our economic system is the best way to serve farmers. I think we could make this analogy for fuel, for tractors, or for fertilizers or anything else that the farmer or, for that matter, any other portion of our economy might need.

Even the Defense Department would receive reduced requirements and be expected to try to save energy during an emergency.

Senator BUMPERS. I won't pursue that any further.

The CHAIRMAN. If Senator Bumpers would yield just one moment.

Senator BUMPERS. Yes, sir.

The CHAIRMAN. Do you have any questions for Mr. Hormats?

Senator BUMPERS. No, I do not. I only have two more questions for Mr. Vaughan.

The CHAIRMAN. Mr. Hormats, I have no further questions. Thank you very much for your appearance.

Mr. HORMATS. Thank you.

Senator BUMPERS. Mr. Vaughan, I am not going to pursue the question of the desirability or nondesirability of having an emergency petroleum allocation act, but I will say this, that doctrinaire attitude about the marketplace taking care of that, I would simply say that if we were to get into another situation where we had an embargo, my guess is that Congress would pass and the President would sign an Emergency Petroleum Allocation Act within 30 days. You and I just differ on that, and——

Mr. VAUGHAN. I think we do, yes.

Senator BUMPERS. As far as I am concerned, that is all that needs to be said on that.

Mr. VAUGHAN. Yes.

Senator BUMPERS. Your office has put out a bulletin called, "The Emergency Public Information Program, a Retrospective and Prospectus of Problems and Options." And the report says on page 3 that—

> In an energy supply shortage the Government must have an organized dissemination of a demonstrably practicable plan for dealing with the shortage together with a clear and apparent rationale for its approach and implementation.

And the report cites a lesson from the past, and I quote:

> In 1973-74 the public was not convinced that the Federal, State and local officials either knew what supplies were available or were acting to insure equitable distribution. The apprehension generated by those doubts resulted in panic buying, long cues, gasoline waste, and a temporary surge in demand.

And my question is, If we had an interruption tomorrow, do you have a demonstrably practicable plan and will the public believe that you are acting to insure an equitable distribution of the supplies available?

Mr. VAUGHAN. We are busily working on many elements of such a plan, Senator. And I believe that if we had to, we could implement from what are now interim documents and planning documents such a plan.

Senator BUMPERS. But I don't understand. A while ago you wanted the marketplace to make all these decisions, and now you tell me you have a plan. What is the plan?

Mr. VAUGHAN. For the marketplace to work properly, particularly under the stress of shortage, it needs information from a credible source. We propose to provide that kind of flow.

Senator BUMPERS. Is this some kind of a plan that you are actually working on or that you intend to finalize at some point?

Mr. VAUGHAN. It is a plan that we are working on, although it will develop further with the passage of time. However, I do not think there is ever in the business of contingency planning a "final" plan unless one is required to implement it. At that point, we simply must cut it.

Senator BUMPERS. Well, you are not required to do this by Congress. Is this something you are doing on your own initiative?

Mr. VAUGHAN. We believe this is what contingency planning should be . And while you gentlemen are not prescribing the absolute specifics, you certainly have demonstrated a great interest in those specifics.

Senator BUMPERS. By passing a bill, incidentally.

Mr. VAUGHAN. Yes, sir.

Senator BUMPERS. Well, it seems to me there is something inconsistent about this. I won't pursue it. I mean, you wanted the bill vetoed, you say the marketplace will decide and, yet, you say you are developing a plan. Let me ask you this question: What is the difference in the plans you are making and the ones that are contained in the Emergency Petroleum Allocation Act?

Mr. VAUGHAN. The primary difference, Senator, is those plans that were in the bill prescribed sections of our economy that would receive preferential treatment.

Senator BUMPERS. Well, how can you have a plan outside the marketplace that doesn't do that?

Mr. VAUGHAN. Our approach would be to try to augment and assist the marketplace, keeping our involvement as market-oriented as possible.

Senator BUMPERS. So what you are saying is you are not totally comfortable with the marketplace approach?

Mr. VAUGHAN. I do not think that we have ever taken a position, Senator, that if a shortage were deep enough to the point that there were martial law or an energy martial-law equivalent, that the Government would not have to be fairly active.

The fear is that that kind of situation would get prematurely triggered, as it did in 1973-74 and in 1979. In 1979, during the Iranian crisis, Government regulations caused the shortages. There was in fact no shortage of crude oil in this country, as shown by GAO reports, Congressional Budget Office reports, and DOE's own analysis in an after action mode. We merely thought we would be short. And, by the way, the oil companies had informal comments to the DOE warned that this inevitably would happen, that the effective price and allocation control was to have the wrong quantities at the wrong place at the wrong time. That happened. We would like to avoid that.

Senator BUMPERS. Finally, Mr. Vaughan, on page 11 of that same report this is found: "To what degree are consumers likely to be aware of the shift from a controlled market to the free market approach?"

Let me repeat that to make sure we are both on the same wavelength. "To what degree are consumers likely to be aware of the shift from a controlled market to the free market approach?"

And then you say:

> Media Institute data indicate the TV coverage during the 1973-74 and 1978-79 supply disruptions emphasized nonmarket solutions, such as rationing and price controls, to a far greater extent than market solutions. It would be reasonable for large segments of the public to continue to think in controlled market terms and to expect market controls to be called upon again to cope with the future disruptions. This becomes an important issue in light of the Government's goal of encouraging early free planning and free market responses to emergencies.

My question is, How do you intend to reeducate the networks and the public at large so they will know we have switched over to a marketplace concept?

Mr. VAUGHAN. I think we are trying to do that, and I mentioned in my brief statement, Senator, earlier this morning through the primary spokesman of this administration, the President himself. He has indicated as recently as last Saturday his commitment to market orientation for dealing with energy shortages and his belief that it is important to get the information to the public. The Government is geared up to deal in that way. Everything we have done has been intended to convey that message. And I think discussing the facts at the time of a shortage rather than accusations is more constructive than the past practices.

Senator BUMPERS. Here is another document from your office. And this is called, "Mission and Functions, Emergency Executive Reserves." And the mission is:

> The Department of Energy Emergency Executive Reserve Units authorized by the Defense Production Act of 1950, as amended, serve as standby organizations to help meet the Nation's need for oil, gas, solid fuels, and electric power in the event of limited or general war, threats to national security, or other Presidentially declared emergencies.

Now that is the mission. And here are the functions. And one of the functions is, "Helping to allocate and distribute energy resources from primary inventories, production and generation, through distribution to wholesalers, retailers, and end users."

Now, how are you going to allocate? On the one hand you tell me that was what was wrong before that created the shortages, and now here you are saying one of your functions is going to be to help allocate and distribute energy resources.

Mr. VAUGHAN. First, Senator, that is a draft document. Second, our intent at this stage is to bring back the reserve to the clearly authorized area of executive reserve employment, namely, under the Defense Production Act, and those things that act clearly authorizes.

Whether these executive reserves have use to the Government beyond; that is a subject of an inquiry in which we are intensely interested at this point and hope we can extend.

We are having the Georgetown Center for International Strategic Studies conduct seminars to delve into this question. We hope They look at the problems and find some solutions. We may find that the Reserves is not the way to go. It was the way that the Government used rather successfully in the fifties and early sixties.

And I would point out that the reserves have focused at this point on a war or a mobilization for war. We have not decided about extrapolating further.

Senator **Bumpers**. Well, this doesn't say in case of war. It says any threat to national security or Presidentially declared emergencies. And it says during an emergency as defined herein, et cetera, et cetera, in these functions.

Mr. **Vaughan**. The authority, Senator, is the Defense Production Act. My understanding is that that authority is statutorily prescribed with a body of law built up about it and that primarily it relates to bona fide defense national security oriented situations. It is not in my judgment——

Senator **Bumpers**. You think our national security would be affected by an embargo?

Mr. **Vaughan**. Depending on its seriousness and expected length, it could be.

Senator **Bumpers**. Thank you, Mr. Chairman.

The Chairman. Thank you, Senator Bumpers. I don't intend to reargue all of the issues over S. 1503. We have been there. We have been up and down that hill. The purpose of this hearing today is to allow us to focus on what next. I find myself still in disagreement with the Administration on that issue. Each of us has failed to pursuade the other.

I am constrained, however, to note one thing. If I understood your response to Senator Bumpers, your major concern with S. 1503 was the prescriptive nature of priorities stated in it, and your major theory was one that it would be triggered too soon. While I can understand the former, I would also parenthetically state that if you didn't like that, let's wait until the next one.

And on the second point, we gave you the trigger. You didn't have to pull it. You didn't have to use it. So if your theory was that it would be prematurely used, it was the fear of yourself, not of the law.

But I don't mean to belabor that subject this morning. You earlier in your testimony made some reference to the investigation of allegations that some portion of the strategic reserve has been diverted, polluted, and affected by criminal means. And you suggested at that time, I believe, that rather than going into the detail in open session that if we wanted to go into detail we should go into executive session.

My purpose in raising it again now is to simply underscore the determination that I have, and I think that you share, that we are going to get to the bottom of those allegations: that the conclusions that we have now are tentative ones: and, that the investigation is continuing and will be pursued.

And I also want to state for the record my understanding that that is your intention. If you have a different intention, I hope you would state it. This committee has an overriding concern that the integrity of the reserves be absolutely assured to the American people and to our own satisfaction. I assure you that the investigation will be continued to a point where we can have that assurance.

I agree with you, Mr. Vaughan, that it is not fruitful for us to discuss the detail of that while the investigation is being pursued. And I pledge to you our continued cooperation as you go through that exercise. I would solicit any comments you may have in response to what I have stated.

Mr. VAUGHAN. It is difficult to improve on what you have said, Senator. And so I won't belabor the point beyond saying that we certainly appreciate your understanding of this situation and we share your concern with this committee.

There is a lot of our energy security as we have discussed repeatedly in these hearings, entwined in the integrity of that reserve. And we fully appreciate that.

There are some allegations affecting a small portion as the reserve that disturb us. They seem to be criminal in nature, and somebody may have made a few dollars. And it is over a concern that we first make sure that we in no way impair our colleagues in Justice or Customs, or what have you, in any criminal investigation. People who may have done something wrong should be brought to justice and duly taken care of.

At the same time, we are trying to insure that we address with the full vigor any other types of threats that may be embodied in those allegations. And we are pursuing those with vigor. And we will be glad to furnish the committee, and my suggestion is in executive session during this critical period, with a full accounting. And as soon as possible, when we come off the danger of fouling up the criminal investigation, to inform the American people of the status of the investigation And that is our commitment to do just that, Senator.

The Chairman. Mr. Vaughan, I appreciate your statement. I don't know that there is any need for further proceeding of this committee at this time, either in open session or executive session in that regard. I have appreciated our discussions on this subject in the past and will expect that we will be fully informed as these proceedings go forward.

Both Senator Jackson and I have been carefully attentative to this, as have some other members of the committee. But I don't want to formalize it at this stage by further proceedings in the committee. I don't feel that at this stage is necessary. But I do hope that we will continue to have that information available to us, and I expect that we will.

Mr. Vaughan, I have some questions which I will submit in writing for the record, but I think the matters have been explored pretty generally already this morning. And if you can reply to those questions in a short period of time, they will be made part of the record.

Mr. VAUGHAN. Yes, sir.

The Chairman. Thanks again very much.

Thanks all of you gentlemen for being here this morning.

Our next witness is Donald Z. Forcier, Senior Group Director, Energy and Minerals Division of the General Accounting Office, accompanied by Dr. William Kruvant, Mr. Phillip Thomas, and Mr. Richard Springer.

May we please have order in the hearing room?

In this interval I will note that Mr. Vaughan testified before the Subcommittee on Interior and Related Agencies of the Appropriations Committee, and filed certain written responses to written questions in that forum. And rather than repeat all of that here, I will simply insert in this record the testimony before that subcommittee to make it a part of the record before this committee.[1]

STATEMENT OF DONALD Z. FORCIER, SENIOR GROUP DIRECTOR, ENERGY AND MINERALS DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY DR. WILLIAM KRUVANT, ENERGY AND MINERALS DIVISION, PHILLIP THOMAS, INTERNATIONAL DIVISION, AND RICHARD SPRINGER, GENERAL COUNSEL'S OFFICE

Mr. **Forcier**. Mr. Chairman and members of the committee, we appreciate the opportunity to be here today to discuss the nation's preparedness for dealing with oil imports disruptions.

Accompanying me today are Dr. William Kruvant of our Energy and Minerals Division, Mr. Phillip Thomas of our International Division, and Mr. Richard Springer of our General Counsel's office.

As you know, GAO has been active in this area, especially during the past year when we issued four reports on the subject. Our major report, issued just before the expiration of the Emergency Petroleum Allocation Act, contained 27 recommendations to Congress and the Executive Branch on ways to improve our energy preparedness.

Many of the recommendations we made in the reports that we issued last year were reflected in the standby Petroleum Allocation Act. However, DOE's response to our report disagreed with many of our recommendations as conflicting with the Department's basic policy of maximum reliance on the free market during an oil crisis.

Nevertheless, we continue to believe that even with a program heavily weighted toward market forces, there are several things that only Government can do during an energy emergency. These include to provide complete creditable information on the situation and to help to forestall panic, to determine how and when to use the strategic petroleum reserve, to remove regulatory constraints on fuel switching and surge production, to recycle tax revenues, to activate mandatory demand restraint or allocation programs if necessary, and to participate in IEA programs.

Within the past several weeks the Department of Energy in testimony before congressional committees have announced several new initiatives in the area of contingency planning.

Your staff, Senator, presented to us about 2 weeks ago a collection of documents provided to the staff by the Department of Energy, and they asked us to analyze these documents with a view toward assessing their implications for energy contingency planning.

We, of course, have only had a limited time to look at them in the last couple of weeks and had only a limited opportunity to talk to DOE about them, so our observation would have to be considered as tentative.

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[1] See app. II.

Nevertheless, our reading of these documents indicates to us that the DOE programs, as now enunciated, basically rest on two fundamental foundations. These are the strategic petroleum reserve and the executive manpower reserves.

The strategic petroleum reserve is well established and underway. However, the executive manpower reserves is a new proposal and, quite honestly, I would say that there is quite an extent of confusion within the Department of Energy and the administration right now as to how and under what circumstances such a reserve would operate.

At this moment we would characterize it as nothing more than a gleam in DOE's eye. And if it doesn't materialize, what we are back to, Senator, is a contingency plan or program which is based on a strategic petroleum reserve and very little else.

Within the strategic petroleum reserve, we would reiterate points that we have made before, that the Department of Energy still expresses no intention of addressing in advance when to use the reserve, how to distribute the oil or what type of drawdown rate should be employed.

With regard to the executive manpower reserve, Senator, we in GAO agree that Government-industry collaboration can be particularly fruitful during energy emergencies. We supported the concept in our September report and continue to do so.

There are, however, as many have acknowledged this morning, several legal and practical constraints which must be taken into account in any Government-industry collaborative effort, and many of these problems simply have not yet been resolved.

As we see it, there are four basic problems that remain to be resolved with the manpower reserves. One is the question of when such a reserve could be activated. It is our understanding that the Department of Energy would like to activate the reserve during any energy emergency.

However, the Federal Emergency Management Agency, which is the overseer of this program governmentwide, is maintaining that the authority for this reserve is limited to military situations.

Clearly if the FEMA view prevails, the manpower reserves, would not be available under most energy emergencies.

Of course, there are also, obviously, serious conflict of interest and antitrust questions that would have to be dealt with. And whether these could be dealt with in a satisfactory manner so that the reserves could be effective is just not clear right now.

And, finally, there is very little indication as to how these reserves would be used and what they would do if they were ever activated. For example, we don't know whether they would be managers during an emergency or whether they would simply be advisers. The Department of Energy has not made that clear.

Until these type of questions are answered, the executive reserves, should not be considered part of our contingency planning program.

The rest of the efforts that DOE has talked about in the last several weeks in testimony, Senator, amount to little more than data gathering, studies, and defining further options. While such efforts can be useful, we must emphasize that they are by no means contingency plans and would be of little value in an actual energy crisis.

Specifically, what DOE will be studying includes how to encourage buildup of private oil inventories, what public information programs would be most useful during a crisis, the economic effects of supply disruptions, economic impact mitigation options, how to encourage state and local governments to design their own contingency plans, IEA supply rights and fair sharing, and regional capabilities for dealing with shortages.

In our view, Mr. Chairman, probably the most important of these areas is encouraging higher private stock holdings. This is important because it dovetails with the SPR and is potentially the most effective option to mitigate the adverse economic effects of disruptions.

However, a reading of the DOE plan in this area indicates to us that there is no mention of policies or proposals to encourage the drawdown of industry stocks during disruptions. Despite the considerable evidence that industry historically has built up rather than drawn down inventories during shortfalls.

Unfortunately, private stocks are now 110 million barrels lower than last March. If this trend continues and the factors underlying it show no signs of abating, by September, when the DOE study is scheduled to be completed on what to do about this, private stocks will be at levels similar to those prior to the Iranian shortfall of 1979.

To say this another way, Senator, while private stocks have fallen, 100 million barrels between last November and April, the SPR added only about 20 million barrels during the same period. Or, in other words, while we are all very proud of what has happened with the fill rate of the SPR, we are facing a dangerous situation of having a net reduction in stocks as a country. Even despite the SPR.

In terms of concrete plans, if the executive manpower reserves do not materialize, we reiterate we see very little that is new in most of the recent DOE documents.

With regard to the extension of section 252 of EPCA, as we reiterated in our September report, we favor the extension of such a defense.

That essentially concludes our testimony, Mr. Chairman. I could just note a few questions which we still have in our mind. We have provided your staff with an extensive list of questions which the committee might want to pursue with DOE. I just might note a couple of them. The DOE is stressing market forces during a disruption. We would ask have they studied at what price the market might clear, and what the economic implications of that would be.

Now, obviously, Government programs are inefficient and there is a cost to bear there. But the Department of Energy made a tradeoff of the economic effects of allowing the market to operate versus the effects of certain Government programs?

We also see some very serious potential problems with the conflicting State regulations. And we also question whether in fact the Congress will ever receive an SPR drawdown plan and when. Indications are that it would be merely logistical in nature rather than policy oriented.

I would be happy to respond to any questions.

[The prepared statement of Mr. Forcier follows:]

United States General Accounting Office
Washington, D.C. 20548

FOR RELEASE ON DELIVERY
May 6, 1982, 10:00 a.m.

Statement of
Donald Z. Forcier,
Senior Group Director
Energy and Minerals Division
Before the
Senate Committee on Energy and Natural Resources

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to be here today to discuss the Nation's preparedness for dealing with oil import disruptions. Accompanying me today are Dr. William Kruvant of our Energy and Minerals Division, Mr. Philip Thomas of our International Division, and Mr. Richard Springer of our General Counsel's Office. As you know, GAO has been active in this area, especially during the past year when we issued four reports on the subject. 1/ Our major report--issued just before the expiration of the Emergency Petroleum Allocation Act--contained 27 recommendations to Congress and the Executive Branch on ways to improve our energy preparedness.

Many of these recommendations were reflected in the proposed Standby Petroleum Allocation Act (SPAA). The centerpiece of that bill was an emergency oil allocation mechanism. In our September

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1/"The Effects of the Fiscal Year 1983 Budget, Energy Reorganization, and Program Changes on U.S. Energy Emergency Preparedness," EMD-82-45, Mar. 9, 1982. "The United States Remains Unprepared for Oil Import Disruptions," EMD-81-117, Sept. 29, 1981. "Unresolved Issues Remain Concerning U.S. Participation in the International Energy Agency," ID-81-38, Sept. 8, 1981. "The Department of Energy's Reorganization of Energy Contingency Planning Holds Promise--But Questions Remain," EMD-81-57, March 4, 1981.

report, we recommended putting in place a standby system of limited oil allocation or tax recycling. Other subjects covered in both the SPAA and our report included international oil fair-sharing, a cooperative approach by Government and industry to public and private oil inventories, Federal preemption of conflicting State regulations during crises, and many of the other provisions of the SPAA. In addition, we recommended improvements in demand restraint, fuel switching, surge oil production and certain aspects of our international programs.

DOE's official response to our report disagreed with many of our recommendations as conflicting with the Department's basic policy of maximum reliance on the free market during oil crises. The Administration's intention of relying on the market was re-emphasized by the recent veto of the SPAA.

Even with a program heavily weighted towards market forces, however, there are several things only Government can do including:

--Providing complete, credible information on the situation to help forestall panic,

--Determining how and when to use the SPR,

--Removing regulatory constraints on fuel switching and surge oil production,

--Recycling tax revenues,

--Activating mandatory demand restraint or allocation programs if necessary, and

--Participating in the International Energy Agency program.

In congressional testimony within the last few weeks DOE has outlined new approaches to energy contingency planning. Recently, DOE supplied the Committee's staff with documents outlining proposed policies and programs. Two weeks ago the staff asked us to analyze those documents and assess their implications for energy contingency planning.

Because of the relatively short time since we received these documents our analysis is limited to the documents themselves supplemented by a limited amount of additional materials and clarifications we obtained from DOE. As such, our comments today should be considered as tentative.

With that caveat in mind, our review of the documents indicate that DOE is taking some concrete steps toward better-defined contingency plans. Most of the steps, however, are very preliminary and the scope of DOE's effort in actual plan development--as distinct from doing studies and defining options--extends only to several narrow fronts. Basically, DOE's approach rests on two fundamental foundations. These are the Strategic Petroleum Reserve (SPR) and the activation of the Executive Manpower Reserves. Of these two, the SPR is quite advanced while the use of the Executive Manpower Reserves for managing energy disruptions which are not related to national defense emergencies has not reached the concrete proposal stage. In fact, there is considerable confusion in DOE and the administration over whether authority exists to activate the Reserves in such a crisis and what they could accomplish once they were activated. The rest of DOE's effort at this point, is directed at gathering data, doing studies, and defining options, not the actual development of contingency plans.

In the final analysis, it may well be that DOE's approach to contingency planning for everything except military situations is still little more than the SPR.

As the Committee is well aware, the SPR has been filled at a high rate over the past year, thereby materially contributing to our national security. In addition, DOE submitted an SPR distribution management plan in 1979 and currently has an improved version in draft. As we pointed out in our September report, the existing distribution plan was logistical in nature and did not address the crucial policy questions of when the SPR would be used, what method would be used to distribute the oil, and how fast it would be drawn down under varying circumstances. In commenting on our report DOE disagreed with the need for such plans stating that it was not necessary or prudent to outline them in advance. According to the documents we have seen, DOE still has no intention of addressing in advance when to use the Reserve, how to distribute the oil, or what the drawdown should be. However, the Department has apparently realized that at least the procedure for making the decision to use the SPR must be defined in advance. This is needed to avoid confusion and be sure that all relevant agencies have been consulted before a use recommendation is made to the President. We hope that the Department will extend the present study--which should be in draft sometime this month--to cover the additional question of under what circumstances to use the SPR and then go farther to define effective disposal methods and drawdown rates.

The other major proposal of DOE is the revitalization of the Executive Manpower Reserves so that private industry expertise can be brought to bear in the national interest during energy emergencies. We agree that Government/industry collaboration can be particularly fruitful during energy emergencies, and supported the concept in our September report. There are, however, legal and practical constraints which must be taken account of in any Government/industry collaborative effort, and many of these problems have not been resolved.

As we see it, there are four basic problems that have to be resolved. First, it is not at all clear that the Reserves could be activated in an energy crisis which was not declared to be a national emergency under the Defense Production Act. DOE officials informed us that the Federal Emergency Management Agency--which has overall responsibility for Executive Manpower Reserves government-wide--has taken the view that the Reserves could only be mobilized in a defense-related national emergency. If this view prevails, DOE would not be able to activate the Reserves for the most likely kinds of energy emergencies.

Second is the problem of conflict of interest. Clearly, using industry personnel to help manage an energy disruption raises serious questions of what role such personnel could play and still inspire confidence that their actions are in the public interest.

Third, a similar problem concerns anti-trust policy. If private industry personnel from various companies work together to manage an energy shortfall, there must be safeguards against potential collusion and anti-competitive behavior. While some sort of exemption or guideline might be able to deal with these problems satisfactorily, DOF has not yet begun formulating proposed legislation or regulations.

Fourth, there is the overall question of what the Reserves would do if the previous three problems were solved and they were mobilized. For example, would they be advisors or would they be managers? Our discussions with DOE officials revealed that they have not yet made any plans for using reservists. Without such plans, there is the distinct possibility that the reservists would not be effectively used or that the legal issues mentioned above would not be resolved when activation becomes necessary.

Aside from the SPR and the Executive Manpower Reserve plans which are in the process of being drawn up, the rest of DOE's emergency preparedness effort consists of data gathering, studies, and defining further options. While such efforts can be useful, we must emphasize that they are by no means contingency plans and would be of little value in an actual energy crisis. Specifically, DOE is or will be studying:

--How to encourage the build-up of private oil inventories;

--What public information programs would be most useful;

--The economic effects of supply disruptions,

--Economic impact mitigation options;

--How to encourage State and local governments and private industry to develop their own contingency plans;

--IEA supply rights and fair sharing; and

--Regional capabilities for dealing with shortages.

DOE says that these studies will be completed within a year.

In our view, probably the most important of these areas is encouraging higher private stock holdings. This is important because it dovetails with the SPR and is potentially the most effective option to mitigate the adverse economic effects of disruptions. We are currently studying this problem ourselves at the request of Senator Bradley of this Committee. Because private stocks are so important, examining the DOE study proposal in this area provides an illustration of the limitations placed on many of their planned studies. For example, DOE's study focuses entirely on short term means to slow or stop the current drawdown of private stocks and long term policies to encourage private stock building. There is no mention of policies to encourage drawdown of industry stocks during disruptions--despite the considerable evidence that industry historically has built rather than drawn down inventory during shortfalls. Not only is there no option for drawing down private stocks being considered, there is no appreciation that if SPR oil is distributed to companies, it may well wind up in their stockpiles instead of at the gas pump. The "short-term" study of what can be done about the present stock liquidation is slated to be completed in September. Unfortunately, private stocks are now 110 million barrels lower than last March. If this trend continues, and the factors underlying it show no sign of abating, by September private stocks will be at levels similar to those during the Iranian shortfall of 1979. To see this in another way, while the private stocks have fallen by 100 million barrels between last November and April, the SPR added only about 20 million barrels during the same period.

All in all, DOE seems to be moving forward slowly on several narrow fronts in the contingency planning area. Our conclusion last September was that "The inadequate state of the Nation's emergency preparedness...is a serious problem requiring immediate attention. We believe the Federal Government should take prompt and concerted action to counter this serious potential threat to national security." We see no reason to change that assessment today. In terms of concrete plans, if the Executive Manpower Reserves don't materialize we will have little more than the SPR to rely on during an emergency. We see very little that is new in these most recent DOE documents.

While there are no new administration initiatives concerning the International Energy Agency, the IEA is the principal forum where we and our allies can implement cooperative energy policies to mitigate the adverse effects of petroleum supply disruptions. The centerpiece of this cooperative energy effort is the agreement to share available oil among the 21 member countries during international oil shortfalls. Although the system has never been activated it has been tested on three occasions with a fourth planned for the Spring of 1983. These tests indicate that data and pricing problems continue to plague the operation of the system.

GAO issued a report on U.S. participation in the IEA in September 1981. In that report we concluded that U.S. oil company participation cannot be assured without a limited antitrust defense. Accordingly, we favor extension of such a defense. Further, we urge the speedy completion of other actions needed to improve U.S. readiness to fulfill our obligations. These include development of a fair sharing system, re-establishing our National Emergency Sharing Organization, completion of a plan of action (i.e., those types of activities which oil companies could engage in during an emergency under the protection of an antitrust defense), and improvement of the accuracy of our data.

Several specific questions also occurred to us as we looked over the documents supplied us by the Committee staff. Let me mention just a few, the answers to which I believe, would help clarify the status of emergency planning at DOE. In addition, we have submitted a longer list of written questions to the staff, the answers to which might be useful in evaluating DOE's plans.

Among the questions that remain unresolved in our minds and that the Committee may wish to pursue with DOE are the following:

1. DOE intends to rely on a market-oriented approach to a supply interruption, rather than on Government intervention such as allocation or mandatory demand restraint. Has DOE estimated to what levels prices would rise during an interruption? What might the market-clearing price be during a world-wide shortage of one, three or ten million barrels a day? For instance, what are the implications of these prices for the economy or for income distribution? On the other hand, government intervention is not without cost and inefficiency as shown from the past few years. Have these tradeoffs been assessed?

2. DOE is encouraging development of state contingency plans. This invites creation of more than 50 plans and regulations which may conflict with each other and national plans and regulations. How will DOE avoid a web of potentially conflicting regulations?

3. The most damaging effect of the 1979 oil shortfall came from the rapid price increase. Current DOE

plans do not include measures to deal with this problem. What, if anything, does DOE intend to do to attempt to mitigate rapid price increases?

4. Will the Congress, in fact, receive an SPR drawdown plan and when? In its response to GAO's contingency planning report DOE indicated that it did not intend to draw up such a plan. DOE proposals now indicate an intent to do so. Has DOE changed its opinion or do they intend to study the options without developing a specific plan?

That concludes my prepared testimony, Mr. Chairman. We would be happy to respond to questions.

The CHAIRMAN. Thank you very much. I am always distressed as we try to get some of that public understanding and what Senator Bumpers earlier referred to as education of the networks. We find that when we get around to some of the testimony that might contribute to that education and that understanding that the networks are all absent.

I realize this is the noon hour and they get hungry and they get bored. Their attention span is that of a 3-year-old. But I do commend the one who has remained. I appreciate the interest. There is a star in your crown.

But that is fundamental to the problem that we have had for so long. We just won't sit and listen long enough to listen to the exposition by some experts as to what the problems are. I very much appreciate what you have said here today and the work that GAO has done over the last several years, focusing on a number of the perplexing dilemmas it faces.

I am reminded, and perhaps this isn't a fair reminder, but I can't help reminding myself that apparently what the administration intends to do is wait until something happens and then respond to that specific happening with some ad hoc decision that they make at the time.

Now flexibility is greatly to be admired and sought after in some respects. But what are the responses you may sometimes get? And I am reminded of one in which we looked at the drawdown of oil stocks, home heating oil in particular, under the Carter administration. The administration ordered the refineries to beef up supplies of the home heating oils. That precipitated a crisis and shortage in the summertime of the gasoline stocks that led to some panic. Then we found before the winter was over we had excess quantities of home heating oil. This was an ad hoc decision based upon nothing more substantial than the New England lobby.

Well, I shouldn't say nothing more substantial. I don't mean to denigrate the New England lobby. But the New Englanders were yelling loudly and they got more oil. And the New England oil jobbers had plenty of supply. Everybody else in the country suffered from the decision, including price pressures that otherwise would not have occurred.

You have in the past made some studies and issued some reports which are footnoted on the first page of your statement.

Mr. FORCIER. Yes, sir.

The **Chairman**. These go into great detail on the legal authorities available to the administration in responding to various sets of circumstances. You don't focus on that particular issue in this statement today.

Have you changed your mind or have you seen any evidence of anything that is different from the conclusions that you reached in those earlier studies with respect to legal authority?

Mr. **Forcier**. I would say no, Senator, but I would ask Mr. Springer from our General Counsel's office to jump in here.

Mr. **Springer**. No, I don't think that has happened.

The **Chairman**. Then we can take from that that the earlier statements that you made still stand as your opinion? I mention that, because it is an essential that we remember that governments, when faced with the necessity of doing something, or the perceived necessity of doing something, start looking for authority, and if they can't find a clear statement of authority, they try to distort some other or stretch it to cover their needs at the moment.

I suspect that this administration is no different than any other in that regard. And I think they are already pointing to the fact that they intend to apply some constructive elasticity to the interpretation of certain of the statutes that are already on the books. And I would have thought that this administration among all would have abhorred that very notion—that the authority expressed in statutes can be modified according to the administrative whim.

But your earlier reports clearly focused on that as one of the major problems.

I am concerned, too, that you indicate that since the earlier studies have been published there emerged two primary thrusts of the administration. One is the reliance on SPR. And that reliance is undefined.

Mr. **Forcier**. That is correct.

The **Chairman**. And, of course, it relies upon whatever stock is available now, not whatever stock is available on paper. And that leaves us with some substantial vulnerability over a number of years until we get it built up to the levels that it will respond to a larger supply interruption.

So, I think there are major deficiencies in just relying on SPR, even if that plan were defined. Would you agree with that?

Mr. **Forcier**. We would definitely agree with that, Senator. We don't wish to be branded as Government interventionists. However, I think it is very likely that if we do have a disruption with rapidly rising prices very quickly, and I would add that rapidly rising prices is a very serious part of a disruption. As has been said earlier, the volumetric shortages have not hurt us very much in the past. It has been the prices. And that can cause an awful lot of hardship very, very quickly, before markets can adjust.

It seems to me that it is very, very likely that the people will be clamoring and demanding that public officials do something. I am afraid what will happen is that laws will be passed very, very quickly at the 11th hour, and it will be too late to do any good even if they could. But they will be designed so quickly that they probably wouldn't.

We will be faced with another situation that will exacerbate the shortage. We don't need to have it that way. If we can define it, if we can design ourselves a better set of programs without being in the heat of passion of a shortage, we would all be a lot better off in our view.

The CHAIRMAN. Of course, I agree with that statement. I have been trying to urge that for some time.

The second part is perhaps even more disturbing. You suggest that the second element of the two that you have been able to discern is even less well defined than is the SPR. And that is the revitalization of the executive manpower reserve. First of all, there is a trigger requirement in that statute which requires a certain level of emergency before the Government can even activate these reserves. Is that not correct?

Mr. FORCIER. Our understanding is that there is confusion right now within the administration as to what that trigger is and as to when such a reserve might be able to be activated. The Department of Energy would like to activate it for all energy emergencies. But whether or not the law would permit that is questionable.

Perhaps Mr. Springer could expand on that.

The CHAIRMAN. Yes, please.

Mr. SPRINGER. The Defense Production Act in its statement of purpose tends to limit that statute's use to defense mobilization purposes. So unless the energy shortfall were related to a mobilization effort, it may not be available in the ordinary energy shortfall situation.

The CHAIRMAN. How long has that statute been on the books?

Mr. SPRINGER. It was enacted during the Korean war in 1950.

The CHAIRMAN. In the Korean war?

Mr. SPRINGER. The Korean war.

The CHAIRMAN. Was that the statute that was relied upon by President Truman in his ill-fated effort to nationalize the steel industry? Or did that predate passage of this statute?

Mr. SPRINGER. I am not sure whether he relied on that statute for that decision.

The CHAIRMAN. The courts in that instance found very quickly that he didn't have the authority.

Mr. SPRINGER. Yes.

The CHAIRMAN. Are we not likely, if there is an ambiguous authority, to see prolonged court challenges over the attempted exercise of that authority?

Mr. SPRINGER. Yes, Senator. I would say very definitely.

The CHAIRMAN. A major concern that I have is that whatever authority is granted should be in clear and unambiguous terms to discourage court challenges and to make those court challenges much more quickly resolvable by the courts. The more complex and difficult the issue, the longer it is going to take to run it through the court process. We may indeed be able to avoid some of these court challenges by having very clear authority and some of the planning done subject to tests at an earlier period before the emergency so that they are not subject to that test during the emergencies.

There are some people who will look at their own interest above some other perception of the national interest and attempt to block governmental action because they perceive it to be of a disadvantage to themselves. So they will use court procedures if they can. We ought to seek to minimize that.

The executive manpower reserve under the Defense Production Act contemplates the mobilization of what groups of people? What is the executive manpower reserve?

Mr. FORCIER. Well, I believe there are three reserves in the energy area, one dealing with the oil and gas industry, one dealing with the electricity industry, and one dealing with the coal or solid fuels industry. And presumably they would be executives from firms in those industries who would come into Washington and help deal with the problem of an energy crisis.

The CHAIRMAN. Is that one of the areas where we are running into antitrust policy?

Mr. FORCIER. I would expect that there certainly would be antitrust questions there that would have to be dealt with.

The CHAIRMAN. Well, one way to avoid antitrust questions is to make sure you have people that are trying to administer the program that don't know anything about it.

Mr. FORCIER. Right.

The CHAIRMAN. You avoid that by making sure that the people you select as administrators never had any affiliation with the problem. Therefore, they are guaranteed to come in with a completely clean slate, which is to say no foreknowledge at all.

Mr. FORCIER. I would hope that we would be able to find and use that expertise somehow. That a way could be found to deal with the antitrust conflicts involved.

The CHAIRMAN. If this committee requested that the GAO do so, would you be in a position to continue to review the DOE's initiatives and provide periodic reportings as you now do for the SPR?

Mr. FORCIER. We would be happy to do that.

The CHAIRMAN. Thank you very much. I appreciate your past actions. They have been very, very helpful to us in the debates if nothing else. And I think we are moving toward policy, even though we may fail in the passage of legislation because of the President's veto. There is obviously a heightened interest within the administration and perhaps some heightened activity, so the action is not just an exercise in frustration, although it is that also.

Senator Jackson has requested that I ask a couple of questions. The General Accounting Office recommended in their report to the Congress of December 31, 1981, that the administration give serious consideration to using interim storage to achieve the 300,000 barrels per day fill rate.

Mr. Vaughan testified that the administration is reluctant to use interim storage because of potential program risks, such as fraud and theft, displacement of private stock, increased environmental consequences, and higher facility costs.

What are your views on his comments?

Mr. FORCIER. Well, we support interim storage, Mr. Chairman. As an energy policy analyst, I strongly believe in the national security benefit of such a program.

However, as Mr. Vaughan has indicated this morning, I realize that there is a tradeoff involved involving a budget question.

The CHAIRMAN. That has to do more with the fill rate than it has to do with using the interim facilities, does it not?

Mr. **Forcier**. Well, there would be a cost to leasing the interim facilities. However, the largest cost would be buying the oil.

The **Chairman**. Some people have suggested that right now with the drawdown on inventories and the reduction in use that there is an awful lot of steel tankage available today as above ground steel tankage and unused oil tankers.

Mr. **Forcier**. Yes, sir.

The **Chairman**. And that the cost of that interim storage might well be less than the cost of the capital to provide permanent storage.

Mr. **Forcier**. Well, as a matter of fact, we are looking into that specific question at the request of Senator Bradley. And we expect to have a report within the next week or 2 on that. We are looking at the question of availability of storage, cost of storage, and the cost of the program. We certainly would have a national security benefit from the program. We might also have an economic benefit depending on the future price path of oil. We are looking at that and will be reporting some figures on it shortly.

The **Chairman**. It was suggested to me that the worldwide supply of tanker capacity is so great that some tankers will be put to the torch and sold only for scrap.

Mr. **Forcier**. In terms of the first question of availability of storage, I don't think there is any doubt. There is plenty of availability.

The **Chairman**. If indeed somebody is about ready to grab a tanker, we ought to be able to get it pretty cheap. If we bid 1 percent over the scrap value, scrap net value, I would think we might become owners. It would appear to me that if that is the case it might well be less costly than some of the other alternatives that we are pursuing.

Will that be included in the report that you provide?

Mr. **Forcier**. Yes, sir, that will be. And we hope to have that finished within the next week or 2.

The **Chairman**. Thank you very much. I do appreciate your interest, of the past reports and past activities of GAO and your presence here today.

Mr. **Forcier**. Thank you, Mr. Chairman.

[Subsequent to the hearing the General Accounting Office submitted the following:]

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

ENERGY AND MINERALS
DIVISION

MAY 21 1982

B-207583

The Honorable Bill Bradley
United States Senate

Dear Senator Bradley:

Subject: Feasibility and Cost of Interim Storage for the Strategic Petroleum Reserve (GAO/EMD-82-95)

As part of our ongoing study of options for building, holding, and using private oil stocks, requested by your letter of July 31, 1981, your office has asked for information concerning the feasibility and cost of interim storage for the Strategic Petroleum Reserve (SPR) managed by the Department of Energy (DOE). Since our review of private storage options is not yet complete, the data and analysis set out here are preliminary; however, we anticipate that our calculations and findings will be subject only to minor revisions. This report also builds on information and analysis presented in a recent letter report to the Chairman of the House Subcommittee on Fossil and Synthetic Fuels, Committee on Energy and Commerce. 1/

In the interest of timely release of this report, Senator Bradley requested that GAO not seek agency comments.

Our calculations indicate that an SPR fill rate of 300 thousand barrels per day (MBD) beginning in FY 1983 and continuing until the SPR contains 500 million barrels (MMB) will require interim storage during FY 1983-1985. The peak 1-year requirement will be approximately 69 MMB in FY 1984. Our inquiries at DOE and among industry sources also suggest that temporary storage in the form of steel tanks and/or tankers will probably be available at costs ranging from about $1.20 to $3.65 per barrel per year. We estimate, therefore, that an interim storage program to meet the goals mentioned above, given DOE's estimates of future oil prices, would cost from about $0.7 billion to $1.1 billion over 4 years. These estimates include storage costs and incremental debt financing of both storage and accelerated oil purchases. In comparison to the present DOE plan, an interim storage program would result in budget addition in fiscal years 1983 and 1984 and reductions in fiscal years 1985 and 1986.

1/"Leasing Storage Capacity for the Strategic Petroleum Reserve," EMD-82-62, March 12, 1982.

Numerous studies have shown that emergency oil reserves can pay for themselves many times over in the event of an oil supply disruption. A larger SPR achieved sooner will increase the reserve's deterrent and insurance value during the next 3 years. Our analysis shows that if the price paid for SPR oil (including transportation) were to increase to $46-49 per barrel in fiscal years 1985 and 1986--from an estimated $37-39 per barrel in 1983 and 1984--the savings from buying the oil earlier would offset the costs of temporary storage at $1.20 per barrel annually--compared to DOE's current SPR plan. If storage costs as much as $3.65 per barrel, an increase in the price of SPR oil to $52-56 per barrel in 1985-1986 would offset temporary storage costs. Therefore, apart from any disruption during the next several years, accelerated SPR purchases could lead to a net economic benefit depending upon the future price of oil.

THE NEED FOR TEMPORARY STORAGE

Section 4 of S. 2332 1/ requires the President, subject to the availability of funding, to fill the SPR at an average annual rate of at least 300 MBD beginning July 1, 1982, to maintain this rate until 500 MMB are in storage. Since development of permanent salt dome storage facilities does not permit such a high fill rate, the proposal raises several questions:

--How much temporary storage is needed to permit a fill rate of 300 MBD?

--Is sufficient temporary storage space available and in what form?

--What would be the additional cost of such storage?

--What changes in the price of oil could offset the added cost of temporary storage?

This report addresses these questions. To identify how much temporary storage is needed we used information presented in the recently issued GAO report cited above. Concerning the availability and costs of temporary storage, we examined pertinent studies prepared by industry and the Department of Energy, considered recent testimony by experts on the subject, and spoke with numerous officials in the Federal Government and industry. Our method for estimating the costs of a temporary storage program and what changes in the price of oil would offset that cost is discussed in detail below, along with the results.

Enclosure 1 shows (1) the SPR fill schedule based on a fill rate of 300 MBD until a 500 MMB SPR is achieved, (2) the current

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1/A bill to amend the Energy Policy and Conservation Act to extend certain energy programs for other purposes.

fill schedule as permanent storage space becomes available, and (3) the resulting gap between available permanent storage and SPR fill at the 300 MBD rate. We assume that practical considerations associated with initiating a temporary storage program would delay implementation of the 300 MBD rate for several months. Because of this and to simplify storage and financial calculations, we assume that the accelerated storage rate begins in fiscal year 1983. Therefore, interim storage will be needed from fiscal years 1983 through 1985, with a peak 1-year requirement of 69 MMB in 1984. Actual capacity requirements for each year could vary depending on exactly when oil deliveries are made and when SPR permanent storage becomes available for absorbing the temporarily stored oil.

IS ADEQUATE SPACE AVAILABLE FOR TEMPORARY STORAGE NEEDS?

Steel tanks and tankers are the two principal means available for interim storage. Together they should provide sufficient capacity for the amounts of oil required. Each may present problems which are discussed below.

The need for segregated storage

If SPR oil is to be stored temporarily in private storage, the stocks should, in our judgment, be placed in segregated facilities. Such stocks require careful, periodic monitoring--to show whether the proper quantities and qualities of oil are maintained. If SPR stocks were integrated with industry's normal operating stocks, they would be extremely difficult and costly to monitor. Furthermore, integrating private and public stocks could enable companies to reduce their normal operating stocks by making use of the Government's oil. This could offset much of the value of an accelerated SPR stock buildup.

Availability of steel tankage

It is difficult to tell at any point in time exactly how much tank space might be available for temporary oil storage. The U.S. petroleum industry is complex, consisting of hundreds of companies involved in producing, importing, gathering, refining, and transporting oil. Oil storage occurs at each of these points. Consequently, a firm figure on how much space could be made available for temporary storage would require a detailed current survey.

The National Petroleum Council (NPC) periodically makes the most comprehensive surveys of storage capacity and inventory in the Nation's primary petroleum distribution system. 1/ The most

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1/National Petroleum Council, "Petroleum Storage and Transportation Capacities, Inventory and Storage," Vol. II, December 1979.

recent one, reported on storage activities for 1978. At that time NPC concluded no significant amount of underutilized storage capacity existed. In April 1981, the NPC reviewed the findings of its 1979 analysis with regard to crude oil storage capacity. This review confirmed the previous analysis.

Recent experience, however, suggests that the NPC's conclusion may have been overly conservative. As a result of the 1979 Iranian oil supply shortfall, primary oil stocks in the United States (excluding SPR oil) rose to a peak of 1357 MMB in August 1980--177 MMB more than in August 1978. 1/ This demonstrated the industry's capability to hold considerably more stock than the 1978 NPC figures indicated. Since stocks have been declining during the past year, some of this capacity could be available for interim storage. Primary stocks in March 1982 were down 100 MMB from the March 1981 level.

In 1981 Exxon conducted a study of U.S. and world primary oil inventories, with subsequent analysis of the U.S. primary inventory system through the end of 1981. 2/ Company officials we spoke with said that by the end of 1981 total U.S. petroleum inventories were about normal and that the U.S. system did not have excess storage capacity. The officials said that 50 MMB of existing crude oil inventories might be available for strategic purposes. However, they cautioned that very little of this could be segregated since it was scattered in many locations, integrated with working stocks, and moving through the storage system (i.e., not in the same place over time).

Several other studies have estimated the space that might be available for additional oil storage. A DOE October 1981 draft report on options for accelerating strategic oil stockpiling found that no more than a few million barrels of existing excess tank storage capacity could be segregated from the tanks used for private operating inventories. However, the report said that if industry reduced its inventories to historical levels, 40 to 50 MMB of segregated tankage (apparently for crude oil alone) could be available. The DOE conclusions were based on a study by Science Applications, Inc.

In February 1982 the Aerospace Corporation provided DOE with a draft report analyzing U.S. private sector petroleum storage capacity. Using DOE Energy Information Administration (EIA) data for 1976 to 1981, the study estimated potentially available capacity at major refineries, bulk terminals, and pipelines. The

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1/The figures include primary product stocks held at refineries, in pipelines, and at major bulk terminals, and crude stocks held at refineries, in pipelines, and in lease tanks. Tanks account for most storage. The NPC figures for 1978 show steel tankage accounted for 75 percent or more of total storage space.

2/Exxon Corporation, "World Oil Inventories," (August 1981).

60 largest U.S. refineries, 62 largest pipeline and bulk terminals holding crude oil, and the 36 largest petroleum product bulk terminals were examined. The study identified potential spare capacity of about 109 million barrels, 26 MMB for crude oil and 83 MMB for refined products. These results, however, must be interpreted with caution. Because of limitations in the original data, Aerospace could not fully quantify results on a company-by-company and site-by-site basis.

On February 10, 1982, DOE issued a request for proposals (RFP) for short-term storage of DOE crude oil. It asked interested companies with available storage capacity to indicate whether they would be willing to lease capacity and how much they would lease to DOE for periods up to 6 months. In addition, the RFP invited companies to make proposals for storage up to 1 year. Respondents indicated that as much as 65 MMB of domestic tankage might be available for leasing. Moreover, the companies offered 32 MMB of tankage and 19 MMB of underground storage in foreign locations. These potentials add up to 116 MMB--considerably more than the peak interim storage requirement of 69 MMB. In addition, DOE received proposals offering up to 99 MMB of storage in foreign flag tankers. The total offers for all forms and locations of storage were 215 MMB.

These figures represent a maximum potential, as the solicitation was only for a basic ordering agreement. Of 30 companies that responded, all but one submitted bids that took exception to one or more of the clauses in the solicitation. These differences would have to be negotiated and compromises reached before storage could be obtained. According to a DOE official, while the response was surprisingly favorable, actual storage secured might be only 30 percent of the maximum potential. Finally, and most important, these offers are for periods too short for using temporary storage for the program examined here. As Enclosure 1 indicates, temporary storage would be required for about three years for 21 MMB, two years for another 13 MMB, and two years for 35 MMB. A critical question, then, is to what extent do the results of the response to DOE's solicitation reflect available storage capacity for longer periods of time? The DOE official we spoke with felt that less storage would be offered for the longer term because companies would not want to give up long term flexibility.

Other indications, however, show that considerable tank capacity for periods up to several years may be available. For example, in March 1982 a representative of the Independent Fuel Terminal Operators Association testified before the House Subcommittee on Fossil and Synthetic Fuels that their members could make 12 MMB of long term storage available, much of it for crude oil. In a subsequent discussion with GAO, an official of the Association said this tankage could be segregated. He also estimated that 20-30 MMB of excess tank capacity probably exists at bulk terminals and refineries in the Northeast alone.

To summarize, it is not clear exactly what amount of segregated steel tankage could be made available for temporary SPR storage, what kind of storage (i.e., crude versus various product types), and for how long. Some sources suggest that little capacity could be had. However, other sources, as well as analysis of data on storage over the past several years, indicate that substantial capacity might be available. If the location is restricted to the United States, a possible range is anywhere from 10-25 MMB to 100 MMB or more. Allowing storage in tanks in foreign countries could significantly increase this figure.

What is needed to resolve this ambiguity is a formal U.S. Government request for interim storage proposals that would specify the minimum acceptable quantity offers, type (crude versus product, quality factors), time periods, location requirements, and so forth. In our opinion, such a solicitation should also explore whether some capacity might be made available if the Government were prepared to purchase surplus oil inventories currently being stored by particular companies. In other words, it should ask whether oil for the SPR could be purchased in tanks that could then be leased to the Government. This procedure might free up additional tank space that otherwise would not be available.

Availability of tankers.

If the Government is prepared to consider storing SPR oil in surplus ocean-going tankers, enough capacity can probably be secured in this form alone to meet all temporary storage requirements. As discussed shortly, however, tanker storage raises several problems that would have to be solved.

Because of the decline in oil demand, the market for very large crude carriers (VLCC's) 1/ is depressed and is expected to continue declining well into the future. In fact, by 1990, only one-half of the 750 vessel VLCC fleet is expected to be employable. Some of the surplus is being absorbed by slow steaming, making multiple stops, and spending longer time in port; the remainder is sitting idle or going for scrap. In 1980, 26 VLCC's went for scrap; in September 1981, 10 VLCC's were scrapped and 67 entered inactive files. The scrapped tankers alone had a capacity to hold roughly 108 MMB of oil.

According to the Maritime Administration, in November 1981, 164 ships over 100,000 deadweight tons (dwts) were inactive worldwide. This total equates to nearly 300 MMB of excess storage capacity as shown in table 1.

1/Tankers of 175,000 deadweight tons or greater.

Table 1

Inactive Tankers Over 100,000 Deadweight tons (Dwts) November 1981

Number of Dwts (000's)	No. ships	Total dwts (000's)	Barrels (000's) (Note a)
100-124	10	1,125	8,213
125-174	13	1,185	13,250
175-224	24	5,203	37,982
225-299	91	27,990	167,827
300+	26	9,917	72,394
Total	164	41,050	299,666

a/ GAO calculation. Assumes 7.3 barrels per dwt.

According to the Transportation Institute, if one includes capacity absorbed in slow steaming, over 80 million deadweight tons (over 600 MMB) are available in the large crude carrier categories most suited for storage capacity.

The Coast Guard has found that as ships age, safety and pollution hazards increase. However, most of the 164 generally inactive ships are relatively young. Only three were built before 1967; 42 were built in 1967-71; 108 in 1972-76; and 11 in 1977 and later. Officials with whom we spoke in both Government and industry believe many of these ships would meet U.S. environmental standards.

Temporary oil storage in tankers is common in industry, although not for the length of time that would be needed for SPR temporary storage. Nearly one-half of the 164 ships referred to above have been used for short-term storage. As of September 1981, about 227 MMB of oil were being stored in tankers worldwide; about 82 MMB were in the Gulf of Mexico and the Caribbean. In addition, the Japanese Government has been storing about 60-70 MMB of emergency reserves in tankers for time periods comparable to those necessary for temporary storage of SPR oil.

Tanker storage is subject to ownership, environmental, and safety problems. Nearly all the surplus ships available for leasing are foreign flag. The average size of U.S. flag tankers, 50,000 dwt, is about half of that of the world tanker fleet as a whole. If the Government were to store substantial quantities of SPR oil on foreign flag ships, U.S. labor unions might argue that some or all of the ships should carry American crews. U.S. crews, however, are more expensive, a factor which could affect the costs of leasing tankers. Other drawbacks for tanker storage are the risks of environmental pollution and sabotage. Nevertheless, in spite of these risks private industry stores and transports large volumes of oil on tankers every day.

The risk of damage should there be an environmental accident or some other incident would be lessened if the tankers were anchored in favorable locations. For example, anchoring in the the Gulf of Mexico would put the tankers in U.S. waters; the Gulf has relatively mild weather most of the year; and the major U.S. oil distribution system is centered there. Large tankers would have to anchor far from shore, but the oil could be landed through the Louisiana Offshore Oil Port (LOOP) system. Perhaps more serious are Gulf environmental hazards such as hurricanes and the many oil and gas pipelines and oil rigs which would have to be avoided. Nevertheless, most officials suggested that the Gulf could accommodate tanker storage even in hurricane season; if the engines were operating, tankers could be moved quickly when necessary. Alternatively, the Caribbean also may be suitable. It currently accommodates tankers of 280,000 dwts carrying Alaskan oil.

A question exists as to whether storage of oil in tankers would require environmental impact studies. Coast Guard officials with whom we spoke said that a large-scale tanker storage program would require a 2-month environmental assessment and a 1-year preparation of a programmatic environmental impact statement. S.2332 would eliminate the need for such actions. It states that "no action related to the storage of petroleum products in existing facilities for interim storage in the Strategic Petroleum Reserve shall be deemed to be a 'major Federal action significantly affecting the quality of the human environment' within the meaning of that term as it is used in section 102(2)(C) of the National Environmental Policy Act of 1969."

WHAT WOULD BE THE ADDED COST OF INTERIM STORAGE?

The costs of a temporary storage program are the cost of leasing the storage space, including financing, and the cost of financing the oil purchased during the life of the program. The cost of oil itself is not considered an added cost, since the oil would eventually be purchased under the regular program. If oil prices rise between the time it is purchased for the interim program and the time it would have been purchased for permanent storage, some or all of the additional costs of the storage program would be offset.

Leasing rates for storage vary widely by location, length of contract, volume of oil, and product type. For example, a DOE draft report of October 1981 reported estimates for leasing steel tanks ranging from $1.20 per barrel per year, to a high of $3.96. For tankers, it reported estimates ranging between $1.46 to $3.28 per barrel per year. The report noted that the existence of distinct geographical markets for storage capacity results in leasing costs that vary by region and are highly volatile. The report concluded that the price of leasing storage facilities to the Federal Government would be in the $2.50 to $3.50 per barrel range. Two months later, however, some DOE officials said that they believed DOE could lease between 10-30 MMB of steel tank capacity at about $1.80 per barrel per year. In early March 1982, a representative of the Independent Fuel Terminal Operators Association cited a figure of $2 per barrel per year as a rate at which members of the Association would be willing to lease steel tank storage space.

Recently, several lower estimates for leasing tanker storage have been publicized. On March 25, 1982, the President of the Petroleum Industry Research Foundation told the Senate Energy and Minerals Resources Subcommittee that large tankers can be leased at a cost of $1.20-1.80 per barrel per year. On April 26, 1982, the DOE Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness provided the same figures to the House Interior Appropriations Subcommittee. A few days earlier, the Chief Economist for Standard Oil Company (Indiana) told the Senate Energy and National Resources Committee that tanker storage could be secured for $1.00 per barrel annually. In a subsequent discussion with GAO, he estimated that up to 100 MMB of tanker storage could be available at that rate.

The wide variation in estimated leasing rates requires a prudent approach in assessing the added costs of interim storage for SPR oil. As enclosure I showed, the proposed interim storage program will require storing from 34-69 MMB over a few years. Even if there is more than adequate surplus storage capacity to handle such needs, a decision by the Federal Government to lease such an amount could exert upward pressure on storage price. Until the Federal Government requests and receives bids on specific storage capacity proposals, the actual price for which storage can be had will be uncertain. If the capacity surplus is really as large as some have suggested, the competition of companies to lease space will hopefully keep rates down. We believe that a request for bids on both tankers and steel tanks could help secure low rates because of the large surplus of tankers.

For this report, we used estimates ranging from $1.20 per barrel per year to $3.65 to illustrate the possible costs of temporarily storing SPR oil. Using these figures, enclosure II shows the costs to the Government of a temporary storage program.

We assumed that leasing rates would remain constant over the 1982-84 period. This seems reasonable considering that most forecasts assume flat demand over the next several years. To calculate the costs of financing both storage and the cost of purchasing the oil we used Data Resources, Inc.'s, (DRI) forecasts of Treasury security interest rates for 1982-83 (12.5 percent). We assumed that FY 1983 oil prices are set in the first quarter of FY 1983 and that FY 1984 prices are set in the first quarter of FY 1984. For the cost of oil purchased for temporary storage, we used prices for SPR oil provided in the administration's FY 1983 budget (i.e., approximately $37.00 in 1983, and

$39.00 in 1984). These figures include transportation costs. 1/ To estimate net benefits of buying the oil earlier, we used the budget's forecast of oil prices in fiscal years 1985 and 1986 ($41 and $43 respectively) to calculate what the same amount of oil would cost then.

Enclosure II shows that the estimated total costs to the Government of a temporary storage program range between $690 million and $1.14 billion. The lower figure assumes storage can be secured for $1.20 per barrel annually; the higher figure assumes storage costs $3.65 per barrel per year. The table also shows separate figures for storage and debt financing costs. The costs for storage facilities range between $181-551 million. Charges for borrowing the money to finance the storage over the 3 years range between $39-118 million. The largest added expense is the cost of debt to purchase the oil for temporary storage--estimated at $773 million.

Enclosure III shows what the oil itself would cost the Government, if it were purchased in 1983 and 1984 at prices ranging between $37.00-$39.00. This amount, however, must be offset by what the oil would cost if purchased later as part of the regularly scheduled SPR program, since the oil would eventually be purchased anyway. Consequently, figures for the cost of oil in 1985 and 1986 are expressed as negative. The fact that the cost of oil figure in the total column on the right hand side of the table is also negative shows that there are net savings of about $300 million by buying the oil sooner. These estimated savings substantially offset the other estimated costs of the temporary storage program.

WHAT OIL PRICE INCREASES WOULD OFFSET THE COSTS OF TEMPORARY STORAGE?

As indicated in the above discussion, if oil prices increase quickly, the increased value of oil bought earlier for temporary storage would help offset the costs of temporary storage--making the action a good financial investment.

1/Transportation costs vary, of course, depending upon where the oil is bought, shipped to, volume, and so forth. Companies which bid on contracts to deliver oil to the SPR program frequently state an overall price without breaking out transportation charges. According to a DOE official, recent typical rates for shipping crude to the U.S. Gulf of Mexico on foreign flag vessels from the North Sea, North Africa, West Africa, and Persian Gulf, ranged between $.90-1.20 per barrel. Oil shipped from Mexico to the Gulf cost about $.35-.40 per barrel. The Cargo Preference Act, which requires that 50 percent of SPR oil be shipped in U.S. flag vessels, can increase transportation costs by 2-3 times or more. In its FY 1983 budget the administration calculated that the Cargo Preference Act would increase the average price of oil purchased for the SPR by about $1.00 per barrel.

How much would oil prices have to rise to break even on the added cost of temporary storage? While other assumptions are possible, we confine our discussion to the estimates of costs previously discussed--i.e., leased storage costing between $1.20 and $3.65 per barrel per year. In all cases we cite price changes needed to offset the full costs of the program above DOE's current SPR plan: storage charges, financing the storage and oil, and the net cost of the oil.

Enclosure III shows that the price of oil would have to reach about $46 in 1985 and $49 in 1986 to fully offset the added costs of temporary storage--at storage facility costs of $1.20 per barrel per year. This means that the price of oil must increase about $10 per barrel between fiscal years 1983-84 and 1985-86. If the cost of leasing storage facilities were $3.65 per barrel annually, the price of oil would have to increase to $52-56 per barrel by 1985-86 to break even. This would represent an increase of about $17 per barrel.

Our analysis assumes, as is shown in enclosure III, that oil bought for temporary storage costs from $37.00 per barrel in 1983 to $39.00 in 1984 (including transportation charges). However, in a soft oil market, such as has been witnessed recently, it may be possible to realize substantial savings on 1983 oil purchases. During much of the past year spot market oil prices for key OPEC crude oils have been selling at substantially lower prices compared to official sales prices. Discounts reached peak levels in March 1982. For example, according to Petroleum Intelligence Weekly's World Oil Price Index, in March 1982 spot market prices for Middle East light crudes and African light crudes were running about $5 below average official prices ($29.00 versus $33.85 per barrel and $31.50 versus $36.65, respectively). 1/ If oil bought for temporary storage could be secured at a substantial price advantage, oil prices would have to rise even less to offset the added costs of temporary storage. Thus, if the world oil market remains soft during FY 1983, and the 34 MMB of oil purchased in that year were obtained at a $4 price advantage, the price of oil would only have to rise to $46 in 1986 (instead of $49) in the $1.20 case.

The critical question, of course, is what future oil prices will be. This is impossible to predict with any degree of certainty. Since the Arab oil embargo of 1973-74 efforts by numerous forecasters, including offices within the U.S. Government, to estimate future oil prices have frequently been very wide of the mark. However, to provide some perspective on how high prices

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1/"Spot Crude Market Dives Despite Formal Saudi Output Cut," Petroleum Intelligence Weekly, March 15, 1982, pp. 5-6.
"Spot Market Slumps Below $30 A Barrel PIW Index Shows," Petroleum Intelligence Weekly, February 22, 1982, pp. 3-4
"Key OPEC Crude Oil Price Trends at a Glance," Petroleum Intelligence Weekly, May 10, 1982, p. 8.

would have to rise to offset the estimated costs of temporary storage, enclosure III provides figures on three alternative price forecasts recently made by DRI. 1/ DRI's baseline forecast shows that oil prices for 1985 and 1986 would come close to those needed to offset the estimated costs of temporary storage. DRI's high price alternative shows prices in 1985 and 1986 that exceed the break-even prices both for the $1.20 case (by far) and $3.65 case. 2/ If a price advantage of $4 per barrel were secured in 1983, the program would more than pay for itself under DRI's baseline forecast for the $3.65 per barrel storage case.

According to DRI, the high price forecast would require some non-trivial supply disruption in the Middle East. It does not, however, envision a major Middle East disruption, for in this case prices would be considerably higher.

The DRI low price forecast reflects higher long-term price elasticities for energy and higher production of oil than the base case. DRI assigned a subjective probability of 10 percent to this case. Of course, such low prices would not offset the costs of temporary SPR oil storage.

THE BENEFITS OF TEMPORARY STORAGE OF SPR OIL

Thus far, our report has concentrated on the added financial costs of temporary SPR oil storage. To place this analysis in proper perspective, it must be remembered that the purpose of the Strategic Petroleum Reserve is to provide broad economic and national security benefits to the Nation--not to make money speculating in crude. These benefits are realized in two ways. First, a substantial SPR may help to deter oil embargoes that could be targeted against the United States and other major oil importing countries. Second, in the event that an oil supply interruption occurs, for whatever reason, drawdown of emergency oil reserves can significantly reduce the adverse economic and other consequences that accompany a loss of oil. Among the economic effects of an interruption are reduced GNP, and increased inflation and unemployment. At some point these economic impacts become serious enough to threaten important political and national security interests of the Nation as well.

Of course, if there were a substantial international oil supply disruption after oil was put in temporary storage, the resulting increased oil prices would much more than offset the added temporary storage costs. For example, the 1979 Iranian oil

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1/"U.S. Oil Outlook," Data Resources, Inc., Energy Review, Spring 1982, pp. 61-83.

2/Assuming that purchase prices for SPR oil for temporary storage are as shown in enclosure III.

supply interruption saw the average OPEC official crude oil direct sales price increase by $10.63 between the fourth quarter of 1978 and the fourth quarter of 1979. By the end of 1980, it was up an additional $9.00. Concerning possible future shortfalls, the EIA recently estimated that a substantial OPEC oil supply disruption in 1983--on the order of 6 MMBD--could result in a $75 per barrel price. 1/

Numerous studies have shown that emergency oil reserves can pay for themselves many times over in the event of an oil supply disruption. A larger SPR achieved sooner will increase the Reserve's deterrent and insurance value during the next 3 years. Congress needs to consider these benefits in deciding whether to fund the added costs of temporary storage.

I hope this information will be of use to you and other members of the Senate Energy Committee and the Congress in your deliberations on these important energy and national security issues. As arranged with your office, we plan to distribute the report at this time to other interested parties. We are continuing to work on the study of private stocks based on your initial request and will keep in touch with your staff as our work progresses.

Sincerely yours,

J. Dexter Peach

J. Dexter Peach
Director

Enclosures - 3

1/U.S. Department of Energy, "1981 Annual Report to the Congress," February 1982, Vol. 3 (DOE/EIA - 0173 (81)/3), pp. 5-12.

Temporary Storage Needed to Fill the SPR at a Rate of 300 MBD Until the SPR Reaches 500 MMB

(By Fiscal Year) (Million barrels note a)

	1983	1984	1985	1986	1987	1988	1989	1990
Total SPR storage needed at 300 MBD b/ Fill rate until 500 MMB c/ SPR is achieved	d/ 377	486	e/ 504					
Planned availability of permanent storage (FY 1983 budget)	343	417	456	538	598	623	670	750
Temporary storage needed to meet 300 MBD fill rate	34	69	e/ 48					
Transfer of temporarily stored oil into SPR permanent facilities			f/ 21	48				

a/Numbers rounded off to nearest whole number.

b/MBD - thousand barrels per day

c/MMB - million barrels

d/At the end of fiscal year 1982 the SPR is scheduled to contain 267 MMB of oil. A fill rate of 300 MBD equals 109.5 MMB per year.

e/It is necessary to store 504 MMB in 1985 instead of 500 for the following reasons. Available permanent storage in 1985 is 456 MMB, which means only 44 MMB of temporary storage are needed to reach 500 MMB. However in 1984, 69 MMB is temporarily stored. To reduce that to 44 MMB, 25 MMB of permanent storage must be used. As explained in footnote f, only 21 MMB are available for receiving oil from temporary storage. Therefore an additional 4 MMB of oil must be temporarily stored in 1985.

f/Under a 5-year contract with PEMEX, Mexico's state oil company, about 18 MMB of oil is to be delivered for permanent storage in 1985 (50 MBD). In 1985, 39 MMB of new permanent storage for the SPR is to become available. Assuming that the 18 MMB of oil from PEMEX is deposited in the SPR in fiscal year 1985, only 21 MMB of oil in temporary storage can be put into permanent storage that year.

Estimated Government Expenditures for Temporary Storage of SPPR Oil a/

(millions of $)

Temporary storage costs (fiscal years)	1983	1984	1985	1986	Total
Cost of storage facilities at $1.20-3.65 per barrel per year	41-124	83-252	58-175		181- 551
Costs for debt financing of storage facility costs	5- 16	16- 49	18- 54		39- 118
Costs of debt financing of oil purchase	157	348	268		773
Subtotal	203-297	446-648	343-497		993-1442
Cost of Oil b/	1258	1365	(861)	(2064)	(302)
Net expenditure	1461-1555	1811-2013	(518)-(364)	(2064)	691-1140

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a/Calculations based on figures reported in enclosure I. Does not include costs for any additional program or administrative expenses that the SPR Program might incur. Assumes that 34 MMB of oil is purchased in the first quarter of FY 1983; that 21 MMB of that is temporarily stored for 2 years and the other 13 MMB for 3 years. The table assumes that 35 MMB of oil purchased in FY 1984 is temporarily stored for 2 years.

b/Assumes prices for SPR oil are as contained in the administration's FY 1983 budget, but are rounded off to nearest dollar (i.e., $37.00 per barrel in 1983; $39.00 in 1984; $41.00 in 1985 and $43.00 in 1986). The negative amounts in 1985 and 1986 show the outlays which would not have to be made in the regular SPR program since the oil was bought in 1983 and 1984.

Oil Price Changes Needed to Break Even on the Costs of Temporary Storage

($ per barrel)

	Oil selling price needed in 1985-86 to break-even if storage leasing costs are:		Assumed prices for SPR oil purchases (note a)	Three recent alternative oil price forecasts by Data Resources, Inc. (note b)		
Fiscal year	$1.20 per Bbl per year	$3.65 per Bbl per year	($/Bbl)	High	Baseline	Low
1983	--	--	37	41	36	29
1984	—	—	39	47	39	29
1985	46	52	41	53	44	30
1986	49	56	43	60	50	32

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a/These assumed prices are from the administration's FY 1983 budget. The prices include transportation costs, and a differential to reflect the added costs of SPR compliance with the Cargo Preference Act. Figures are rounded to the nearest dollar.

b/Import prices to the United States. Data Resources, Inc., "Energy Review," Spring 1982, pp. 61-84; and DRI Energy Service Simulation.

The **Chairman**. Our final witness today is Mr. Bergman, executive director, Americans for Energy Independence.

Mr. Bergman.

STATEMENT OF DR. ELIHU BERGMAN, EXECUTIVE DIRECTOR, AMERICANS FOR ENERGY INDEPENDENCE, ACCOMPANIED BY THOMAS STERN, AMERICANS FOR ENERGY INDEPENDENCE

Dr. **Bergman**. Thank you, Mr. Chairman. I am accompanied by my associate, Tom Stern, of Americans for Energy Independence. We have submitted a statement for the record, Mr. Chairman, and I would be mercifully brief in summarizing it.

The **Chairman**. Your statement will be inserted in the record.

Dr. **Bergman**. The hour is late, and I recognize that even Senators and their staffs have other commitments.

The **Chairman**. I would say, Dr. Bergman, we have even lost that one of the press.

Dr. **Bergman**. Well, I think we are discussing this issue with some pretty important people.

Mr. Chairman, as you know, Americans for Energy Independence is a national public interest organization committed to solutions that will reduce the dependence of this country on insecure sources of foreign oil and the related political and economic vulnerabilities. This is why we are here this morning, to express the public concern about the adequacy of the safety net to protect the country in the event of an energy emergency.

We endorse the legislation before the committee addressed to that objective, specifically, the Jackson amendment 1354, to S. 2332.

Mr. Chairman, we are not reassured by what we have heard this morning from the administration witnesses that this objective of an adequate safety net is going to be met in the absence of such legislation originating here. They have given in our opinion a rather parsimonious interpretation of the whole emergency preparedness framework.

We certainly applaud the work of this committee under your leadership, Mr. Chairman, and together with your very able staff in keeping our attention focused on the unfinished agenda of actions required to achieve national energy security, including the issue of adequate emergency preparedness.

Now, we have heard a lot this morning about how the fine invisible hand of the free market will do the job. In listening to the discussion, the questioning and the responses, it is abundantly clear that whatever the merits of the free market, the creation of an adequate emergency preparedness system is something the free market cannot do alone. There is a government role in this. And I think it is to the credit of this committee that you very pragmatically recognize that we cannot ideologically straitjacket ourselves in approaching these national requirements.

A couple of weeks ago, Mr. Chairman, you chaired a very instructive hearing on the world oil outlook. The witnesses that appeared before you expressed a diversity of views on what the picture looks like. Witnesses, experts, always do that. But there was a consensus among them on one thing, that an emergency situation would cut all bets off. And I think as a consensus among this group of experts they recommended that we prepare ourselves for this emergency, this very likely emergency cutoff. This is the thing that all of them agreed upon. And in all of that testimony I recall one means they suggested, one tangible means they suggested, was an adequate strategic petroleum reserve, which you are considering in the amendments before you today.

Now, I think I would just like to finish up with depicting a scenario of how this emergency might happen and what it might mean. I think that the perhaps ever present danger is a regime change in Saudi Arabia, the second largest, at present the second largest, oil producer in the world, a regime change which is likely in view of political realities in the Middle East, and which could immediately remove a great deal of oil from the world system.

Now, if it was a repetition of the events in Iran in 1978-79, such an emergency could immediately remove as much as 500 million barrels a day from the international system. And it might do so because the new regime in Saudi Arabia easily could be composed of conservationists who have expressed opposition to the high level of oil production that Saudi Arabia has maintained.

Now, the removal, the sudden removal, of 5 million barrels of oil a day is something we experienced in 1979. There was panic in the world markets. And certainly this panic could reoccur, especially when we consider that dependence, the present dependence of major industrial economies.

The **CHAIRMAN**. I might just add, too, that that 5 million then was of 55 million barrels. The free world oil production today is lower. A 5 million barrel shortfall would be a higher proportion.

Dr. **BERGMAN**. Well, that is entirely correct, Mr. Chairman. And when we observe the dependence of some of the world economies on this oil, I think we can appreciate that they would rush into the marketplace now as they did in 1979.

For example, Saudi oil represents about 25 percent of German oil consumption, about 34 percent of Japanese, 37 percent of Italian, and 50 percent of French oil consumption.

Now in terms of their total energy requirements, Saudi oil represents about 9 percent of German energy requirements, almost 20 percent of Japanese, more than 20 percent of Italian, and about 23 percent of French. Fortunately, only about 3 percent of our energy requirements are met by Saudi imports.

So I think it is easy to appreciate the impact of the withdrawal, say, of 5 million barrels of oil. Just in terms of the United States alone, we import a little more than about 1 million barrels of Saudi oil per day. And when you look at what 1 million barrels of oil does in this country at the present time, we are using 1 million barrels of oil a day to generate electricity.

Now until our substitute electricity generating facilities come on line, the new nuclear facilities, the new coal facilities that are being built, which will relieve our dependence on that oil, the Nation is very vulnerable.

Now clearly we need to create this buffer, we need to create this safety net as the first order of national energy business.

As for the strategic petroleum reserve, of course it should be accelerated. I think that in the exchange between Senator Bradley and the Department of Energy representative this morning it was brought out that purchasing oil at the accelerated rate in the soft market would pay for the creation of facilities in which to store it.

You, Mr. Chairman, I think have made a very good point about purchasing our temporary facilities, the tankers, for, say, $1 over their scrap value, as you put it a couple of weeks ago.

Now I think the other thing that you might consider as you look at the SPR is means of easing the permitting process that presently requires a longer time to acquire permanent facilities than is in the national interest. And, of course, you have already made the case yourself for the value of temporary storage.

The second thing we need, and the legislation before you envisages that, is the creation of an emergency system. In other words, how do we use the SPR in the event of an emergency? How are we assured that the oil gets to the sections of the country that need it?

Senator Bumpers made the point this morning about the needs of the agricultural sector. We know that New England is very oil dependent for the generation of electricity. Certainly the midwest is.

You and I, Mr. Chairman, are very fortunate in coming from a section of this country that isn't so dependent. But, you know, we have a lot of hydropower there. The other sections of the country do not.

We need this emergency system. And I am afraid the invisible hand isn't going to create it. The only thing we would suggest is that perhaps the legislation before you is a bit too flexible in giving the administration until September 30 to come up with a plan. It seems to me there should be a plan on the shelf by the end of this week, which would reassure the public, a plan that would work, too.

Finally, there is the issue of the International Energy Agency which needs review and refinement. I think that the U.S. commitment to the International Energy Agency really should be explained in a more clear and articulate fashion than it was this morning.

Together with our testimony we have submitted a piece that Tom Stern wrote for the Christian Science Monitor indicating some of the outstanding questions in terms of our IEA commitments. And we do hope that you will review that.

Now, finally, in conclusion, Mr. Chairman, the twin objectives of U.S. energy policy for the eighties are, No. 1, to push along the transition to a system that uses less oil. This is the medium and long-term objective.

And, second, to create this workable buffer against an unforeseen contingency. Government must play a role in the achievement of each of these objectives. And we the public certain applaud the work of this committee in taking the lead in this effort.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Bergman follows:]

americans for
energy independence

news release

FOR RELEASE

Thursday, April 29, 1982

AFEI Deplores Hole in Energy Safety Net

Americans For Energy Independence (AFEI) today deplored the Administration's default on providing for an energy emergency preparedness program for including an adequate Strategic Petroleum Reserve, to protect the United States in the event of a main oil disruption.

In testimony before the Senate Energy Committee, AFEI Executive Director Elihu Bergman warned that: "Despite the present oil glut, the danger remains of a sudden cutoff of oil supplies which would imperil the economies and security positions of the United States and its allies. Indeed, insofar as the prevailing surplus conditions lead us to relax efforts on oil conservation and development of alternate fuels, the glut increases rather than diminishes our vulnerability in the event of a major oil disruption.

"Today's stark reality is that if an energy emergency occurred tomorrow, there would be chaos. Whatever the outstanding fanciful notions about the capabilities of the marketplace, the marketplace cannot provide an emergency preparedness system. This clearly is a job for government, and we join this Committee in urging the Administration to get on with it."

Bergman said that an upheaval in Saudi Arabia, an ever present prospect, would probably cause the most significant oil interruption: "A Saudi successor regime, involving a coalition of Islamic traditionalists with modernists in the military

-more-

and the growing Saudi bureaucracy, would most likely adopt a conservationist position on Saudi oil production. As the new regime imposes an oil policy that the growing cadre of professional Saudi planners and economists have been unsuccessfully recommending for years, oil production levels would be reduced to about 2 million barrels a day, immediately taking 5 million barrels off the market."

He recalled that when Iranian production fell by 5 million barrels a day after the Shah's overthrow, the world markets were seized with a frenzy of panic buying, distorting and curtailing supplies and doubling oil prices. The market reaction to a major Saudi reduction would be a repeat performance of 1979, Bergman predicted.

"Obviously,' an energy emergency preparedness system is vital to the economic and security interest of the nation. Until our long-term energy solutions are in place, a buffer against disruptions is our first line of defense," he said.

Because the Strategic Petroleum Reserve is a key factor in the emergency system, "there is no excuse for the Administration's plan to decrease the fill rate of the Reserve," particularly because "it is so economical to fill the federal stockpile now, while oil prices are still down," Bergman said. Furthermore, "a plan should exist specifying the proposed utilization of the Reserve under simulated emergency conditions, to ensure that available transportation systems will be able to distribute the crude oil rapidly to refineries in all parts of the country on the basis of need, so that no region will be left with inadequate supplies.

"The Administration's admission that no such plans exist is indeed a sobering disclosure afeter the two oil shocks we experienced in the last decade and another one lurking on the horizon "

Bergman concluded: "Ideological incantations about the role of the free market, which continue to pervade Administration statements about emergency preparedness, are no substitute for the design of a system and procedures for its activation and use. Emergency preparedness, like national defense, is a government responsibility."

# # #

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Statement of

DR. ELIHU BERGMAN, EXECUTIVE DIRECTOR
AMERICANS FOR ENERGY INDEPENDENCE
Washington, D.C.

Before the

COMMITTEE ON ENERGY AND NATURAL RESOURCES
United States Senate

April 29, 1982

Mr. Chairman and Members of the Committee:

On behalf of Americans For Energy Independence (AFEI), a national public interest organization, I appreciate your invitation to share our views concerning the status of U.S. energy emergency preparedness. I would like to make clear from the outset that our organization is in fundamental disagreement with the Reagan Administration's view that reducing the U.S. oil import burden is no longer a national priority and that, as a Department of Energy official asserted at a recent AFEI conference: "If the price of a barrel of oil is $35.00 and you've got a way to substitute it for $34.99, have at it; if it costs $35.01, import the oil. If it is cheaper to be dependent and you can get away with it, do it." I will not dwell on our differences on that basic issue because the subject of this hearing is emergency preparedness, but I do think it is worth noting that the Administration's cavalier attitude toward continuing U.S. oil dependence makes the subject at hand all the more important.

The development of a workable and believable system to protect the country against the adversities of a sudden and unforeseen energy emergency should be a first order of national business. And this Committee deserves our gratitude for maintaining a sense of urgency about the matter. We are here to endorse your efforts.

Despite the present oil glut, the danger remains of a sudden cutoff of oil supplies which would imperil the economies and security positions of the United States and its allies. Because of our scale of energy consumption, the United States would ultimately bear the brunt of a cutoff. Indeed, insofar as the prevailing surplus conditions lead us to relax efforts on oil conservation and development of alternate fuels, the glut increases rather than diminishes our vulnerability in the event of a major oil disruption.

Obviously, an energy emergency preparedness system is vital to the economic and security interests of the nation. Until our longer-term energy solutions are in place, a buffer against disruptions is our first line of defense.

We do not yet have such a system. Today's stark reality is that if an energy emergency occurred tomorrow, there would be chaos. Whatever the outstanding fanciful notions about the capabilities of the marketplace, the marketplace cannot provide an emergency preparedness system. This clearly is a job for government, and we join this Committee in urging the Administration to get on with it.

The market environment and the related physical conditions of oil supply and demand are not the controlling and relevant determinants of reliable oil availability. The key factor in the oil equation is the political environment prevailing on the Persian Gulf. The environment in the Persian Gulf is characterized by conditions of instability and the absence of constructive relationships, both internal and external, in which Soviet ambitions and capabilities are the common denominator and principal beneficiary. The ingredients of this highly volatile environment are reflections of the historic experience of the populations and regimes of the area. They are nothing new. They involve an overlapping set of adversary relationships reflecting historic, political, economic, religious, ethnic, tribal diversities and rivalries, fickle loyalties and kaleidoscopic alliances.

Sudden changes in this unpredictable and volatile environment would create interruptions in the oil marketplace that would impose serious consequences on the Western alliance. It is, therefore, to the contingency of unforeseen supply interruptions that U.S. energy policy must be addressed. Our immediate objective must be the elimination of any impact that a temporary withdrawal of Persian Gulf supplies would impose on the world oil system. An effective energy emergency preparedness structure is the first critical step in achieving this goal. We must act with a sense of urgency.

The Jackson amendment that you are considering today addresses the urgent need for an adequate structure, both in mandating a maximum fill rate for the Strategic Petroleum Reserve (SPR), and in requiring the President to submit to the Congress a contingency plan addressing the impact of an oil shortage on the country, and how he would deal with it.

By contemplating the sequence of events that would follow in the wake of a sudden interruption of Gulf oil supplies, we can appreciate the fragile condition of Western energy security and the critical need to do all we can now to protect ourselves with an effective energy emergency structure. The most significant oil interruption would result from a regime change in Saudi Arabia, which is the more likely and an ever-present prospect. A Saudi successor regime, involving a coalition of Islamic traditionalists with modernists in the military and the growing Saudi bureaucracy, would most likely adopt a conservationist position on Saudi oil production. As the new regime imposes an oil policy that the growing cadre of professional Saudi planners and economists have been unsuccessfully recommending for years, oil production levels would be reduced to about 2 million barrels a day, immediately taking 5 million barrels off the market.

The last time 5 million barrels a day was suddenly removed from the system, following the Shah's departure from Iran in late 1978, the world markets were seized with a frenzy of panic buying, distorting and curtailing supplies and doubling oil prices. The market reaction to a major Saudi reduction would be a repeat performance of 1979.

While the United States derives only 7 per cent of its crude oil requirements from Saudi Arabia, the other major industrial consumers are far more dependent. Germany presently relies on the Saudi source for 25 per cent, Japan for 33 per cent, France for 54 per cent, and Italy for 68 per cent of their oil consumption. In terms of total energy requirements, while Saudi oil accounts for only 3 per cent of U.S. energy use, it represents 9 per cent of German energy consumption, 19 per cent of Japanese, 22 per cent of Italian, and 24 per cent of French. Together, all five countries currently use about 4.6 million barrels a day of Saudi oil, the amount that is likely to be cut off by a new Saudi regime. Under the circumstances, it is understandable that our allies would lose little time in scrambling to protect themselves at any cost if their Saudi supplies were jeopardized.

Beyond the immediate marketplace reaction, a 5 million barrel per day curtailment of Saudi supplies would provide grounds for invoking the International Energy Agency agreement by the United States, Germany, Japan and Italy (France is not an IEA member). The IEA agreement may be triggered when the previous year's import level of any signatory is reduced by 7 per cent. During 1981, Saudi oil comprised 25 per cent of U.S. imports; 26 per cent of German; 47 per cent of Japanese; and 37 per cent of Italian.

When the IEA agreement is invoked, all members are obliged to reduce total oil consumption by 7 per cent. For the United States, this requirement would impose a reduction of 1.1 million barrels a day in our oil availability. Depending on how rapidly this requirement was honored, the curtailment would cause serious disruption in the economy: for example, 1.1 million barrels of oil per day currently is used to generate electricity.

The next steps in the IEA emergency procedures are invoked if the import curtailment is not sufficient to meet the needs of members. First, members are required to draw down their reserves by 50 per cent, and if that action does not provide sufficient relief, an allocation procedure is triggered to share shortages among members. The workings of this procedure are obscure, but because the United States is the major oil user in IEA the impact on us would be profound if allocations ever were invoked.

Certainly, this somber scenario provides ample incentive to get our energy emergency preparedness act together.

One of the most effective protections, and the only one supported by this Administration, is an adequate Strategic Petroleum Reserve, an oil stockpile started in 1977 to provide a cushion in case of an oil cutoff. The current target is 750 million barrels of crude oil by 1987, which at today's import rate, would meet our requirements for approximately six months.

The first three years (1977-80) of the SPR were marked by more talk than action. By the end of 1980 the SPR contained only 107 million barrels (at the existing rate of import, 21 days' worth). The Reagan Administration criticized its predecessor's lack of action and moved swiftly to speed the filling of the SPR. The average daily fill rate in 1981 increased to 258,000 barrels per day, bringing the stockpile to 230 million barrels by the end of 1981 (at the current rate of imports, 55 days' worth). At this pace of accumulation, there was reason to believe that the target of 750 million barrels could indeed be reached by 1987.

But the fiscal year 1983 budget request suggests that the Administration is turning back on an encouraging start. Instead of fulfilling the commitment to Congress to fill the SPR in fiscal year 1982 at a rate of 300,000 barrels per day, the Administration has slowed down the pace of accumulation, and there is not even a promise to try to do better. The fiscal year 1983 budget would continue the reduced fill rate of approximately 200,000 barrels per day. At this rate, it will be 1989 before we reach a target of 750 million barrels, which already is insufficient.

In testimony and public statements, the Administration justifies the low fill rate on the grounds that we have run out of available salt domes in which to store the oil and do not have sufficient funds to expand storage capacity. The Administration's position on the slowdown is not justified. Existing storage capacity can hold almost 600 million barrels. With 250 million barrels already in the Reserve, the existing storage facilities will hold another 350 million barrels. With this capacity, a fill rate of 300,000 barrels per day can be maintained for another three years. But to meet the established SPR target--which will require an additional 150 million barrels--work must begin now on the additional permanent storage facilities, and funding should be authorized for this purpose now.

Meanwhile, the General Accounting Office says that the Administration could lease additional storage space, either steel tanks or offshore tankers, at a cost of $5 billion over a six-year period. With major drawdowns of oil inventories during the year, there is an abundance of private storage facilities available for lease, and the major decline in global oil consumption has created a glut in tankers, many of which now are headed for the scrap heap. These facilities would provide for both temporary and permanent storage requirements.

The considerable savings which have accumulated because of lower oil prices could be applied to storage, lease, or construction. These savings could amount to almost $6 billion by the end of fiscal year 1983. And if the price of oil continues to deline, the savings could even be greater.

There is no excuse for decreasing the fill rate of the Strategic Petroleum Reserve. The world's oil situation is not so encouraging that we can afford to assume that there will not be an energy crisis before the end of the decade. It is economical to fill the federal stockpile now. Private stockpiling is not a realistic alternative and therefore we should not count on it. If the Reagan Administration continues to maintain that a Strategic Petroleum Reserve alone is a sufficient safety net in an emergency, it better make sure that it is adequate enough to meet the likely contingency. We are certainly not there today.

Beyond the existence of an adequate SPR, there is the issue of how the Reserve and other resources will be employed should an emergency strike. The SPR is concentrated in Texas and Louisiana. The major oil consumption is concentrated in other regions of the country such as the Northeast and the Midwest. How will the essential needs of these regions and others be met and how quickly?

Clearly, a plan should exist specifying the proposed utilization of the Reserve under simulated emergency conditions, to ensure that available transportation systems will be able to distribute the crude oil rapidly to refineries in all parts of the country on the basis of need, so that no region will be left with inadequate supplies.

Yet we are told by the Administration that detailed contingency plans do not exist. This is indeed a sobering disclosure after experiencing two oil shocks in the last nine years and with another one lurking on the horizon. Ideological incantations about the role of the free market, which continue to pervade Administration statements about emergency preparedness, are no substitute for the design of a system and procedures for its activation and use. Emergency preparedness, like national defense, is a government responsibility.

By requiring the Administration to deliver a contingency plan based on an assessment of impact and need, the amendment to S - 2332 proposed by Senator Jackson addresses this critical need.

Mr. Chairman, the bill before you enables continuing participation of U.S. firms in the International Energy Agency arrangements. I would like to take this opportunity to submit for the record an op-ed piece on this subject written by my colleague, Thomas Stern, and published in the Christian Science Monitor on January 15, 1982. This statement expresses our view that although international cooperation in the energy area, and particularly in an emergency situation, is absolutely essential, the underlying data and assumptions in the IEA have been altered sufficiently since 1974 to warrant a thorough review of the present arrangements to ensure that equity is achieved. If the United States is to assume burdens as the result of Persian Gulf instabilities, then the other IEA signatories, particularly our NATO allies, should share in these burdens. The equity objective is as important in the international arena as it is in the domestic one.

I thank you, Mr. Chairman and members of this Committee, for hearing from us on this important subject.

THE CHRISTIAN SCIENCE MONITOR

"First the blade, then the ear, then the full grain in the ear"

Friday, January 15, 1982

Would the US help its allies in the event of another oil embargo?

By Thomas Stern

The time: 1974. The free industrialized nations have just experienced a severe economic jolt created by an oil embargo. OPEC, the prime culprit, can hardly contain itself for joy at an unexpected triumph. The United States, Canada, the Western European nations, and Japan react in a panic. Among their first responses to the crisis, true to form, is the establishment of a new organization. It is the International Energy Agency (IEA), an oil consumers' coalition designed to provide protection against the next embargo through a mechanism for sharing the shortage created by a supply cutoff.

The time: 1984, 10 years later. Oil from the Middle East is abruptly cut off. The United Kingdom and Canada react indifferently because, thanks to their own domestic production, they are now essentially independent of imported oil. US dependence on Middle East oil imports has been substantially reduced, representing only 4 percent of its energy consumption. As the result of conservation, conversion to alternative energy sources, and the availability of a strategic petroleum reserve, the US can absorb the temporary loss of Middle East oil imports with tolerable economic effect.

The other IEA signatories are in bad shape, and under the IEA mechanism the US is committed to help them. Japan, West Germany, and Italy, still heavily dependent on Middle East imports, are exposed to immediate economic shock waves. They expect that all IEA members, notably the US, will honor the commitment to share the oil deficit equitably. Beyond helping them ride out the emergency, they expect the US to play a major role in restoring the interrupted oil supplies by applying the required military muscle to restore order in the Middle East.

It is clear that, in the event of such a scenario, the US economy would be exposed to serious consequences. Shortage sharing with allies would require an immediate curtailment of US oil supplies. The sudden domestic shortages would increase inflation and unemployment and decrease the rate of economic growth. The Congressional Budget Office has estimated that a 25 percent curtailment of normal US imports would result in the following: a 25 percent rise in inflation; a 2.2 percent increase in unemployment, and a 7.5 percent decline in the rate of GNP.

The US government would be faced with a serious dilemma. On the one hand, the IEA agreement requires each member in an emergency situation to reduce domestic consumption by 7 percent and, if that is not enough to compensate for the shortfall, to participate in a mandatory allocation system to restore the supply equilibrium. On the other hand, the administration would understand that, once an allocation system was in effect, the American public would likely experience rising prices and long gasoline lines, as it did in 1979.

Would the public accept the deprivation created by the additional losses required by the IEA agreement? In 1984, would it forget the damage done in the 1980s to American industry and labor by Japanese imports? Would it forget the indifference of European allies to American foreign policy and national security initiatives designed to safeguard Middle East oil? Would it be willing to expend its financial and human resources by sending a rapid deployment force into the Middle East to protect oil supplies primarily required by the allies?

We cannot today accurately forecast the public response to IEA commitments, but public resistance would probably be severe. The prudent policymaker had best base his plans on a worse-case scenario of public toleration. And as for our IEA partners, they should recognize now the likely American public reaction to oil-sharing schemes that might be invoked in the future and adjust their behavior accordingly.

IEA members must recognize that the IEA charter is based on an anachronistic situation. The burdens and consequences of oil dependence are now distributed differently among various IEA members and therefore the application of a uniform formula to correct the burdens could create domestic reactions that would rupture the alliance.

If IEA is to continue on the basis of shared obligation, the whole concept of mandatory allocations should be scrapped. A rigid formula for sharing cannot be responsive to a future crisis because we cannot foresee the nature or impact of the crisis. As a workable alternative, IEA should develop a statement of general principles that would suggest a range of acceptable responses to an emergency. With an ever-increasing oil stockpile available as a temporary buffer, we need not now prescribe the appropriate response to the next crisis, but can mount a response to the emergency when it arises.

Most important, the member governments need to adjust to the realities that exist today. They must accelerate efforts to reduce oil consumption and expedite the transition to other energy fuels. They must examine the IEA charter in light of developments of the last 10 years. And they must acknowledge a joint responsibility and financial commitment to safeguard Middle East oil supplies for as long as the Western alliance requires them. They should not expect others to do their work.

Thomas Stern is director of government relations at Americans for Energy Independence, a national public-interest organization.

The **Chairman**. Thank you very much for your statement. I appreciate it. And I had noted the attachment to your statement, the article to which you referred, authored by Mr. Stern.

I think there is a sobering challenge stated in that article, and one we better pay attention to. I will quote just this much from his statement, "The prudent policymaker had best base his plans on a worse case scenario of public toleration." I think we had better do that. And I think that is part of what we are talking about with respect to energy preparedness generally.

There is another point that I think needs to be made, and I would ask if you share that, and that is that you don't make emergency policy or emergency plans based upon median scenarios. You make emergency plans to deal with emergencies. A little like trying to determine from some fire rating bureau what is the average damage to a home by fire during the year and then insuring only to that level of fire damage. Is that a fair comparison?

Dr. **Bergman**. Well, I think we would certainly agree with you, Mr. Chairman.

The **Chairman**. And I think that rather familiar dilemma that every household has, when they pay their fire insurance premium, they probably have never had a fire. Most have not, but they pay the premium. And most are now buying insurance, replacement value insurance, not just depreciated value, because they know in the event of total loss they wouldn't have a house.

So we don't insure to median levels of risk. We insure to the upper level of risk. I don't know why our nation should do less than that with respect to national security. We are spending some $200 billion a year for military preparedness, again, certainly not preparing for all-out war by way of mobilization, nor for some median case level, but for some upper level of risk.

And, yet, in energy policy we approach it as though we had a greater luxury of more tolerance for the risk. That has perplexed me for a long while.

I appreciate your statements here this morning and the work that you have done.

Dr. **Bergman**. Thank you very much, Mr. Chairman.

The **Chairman**. Thank you.

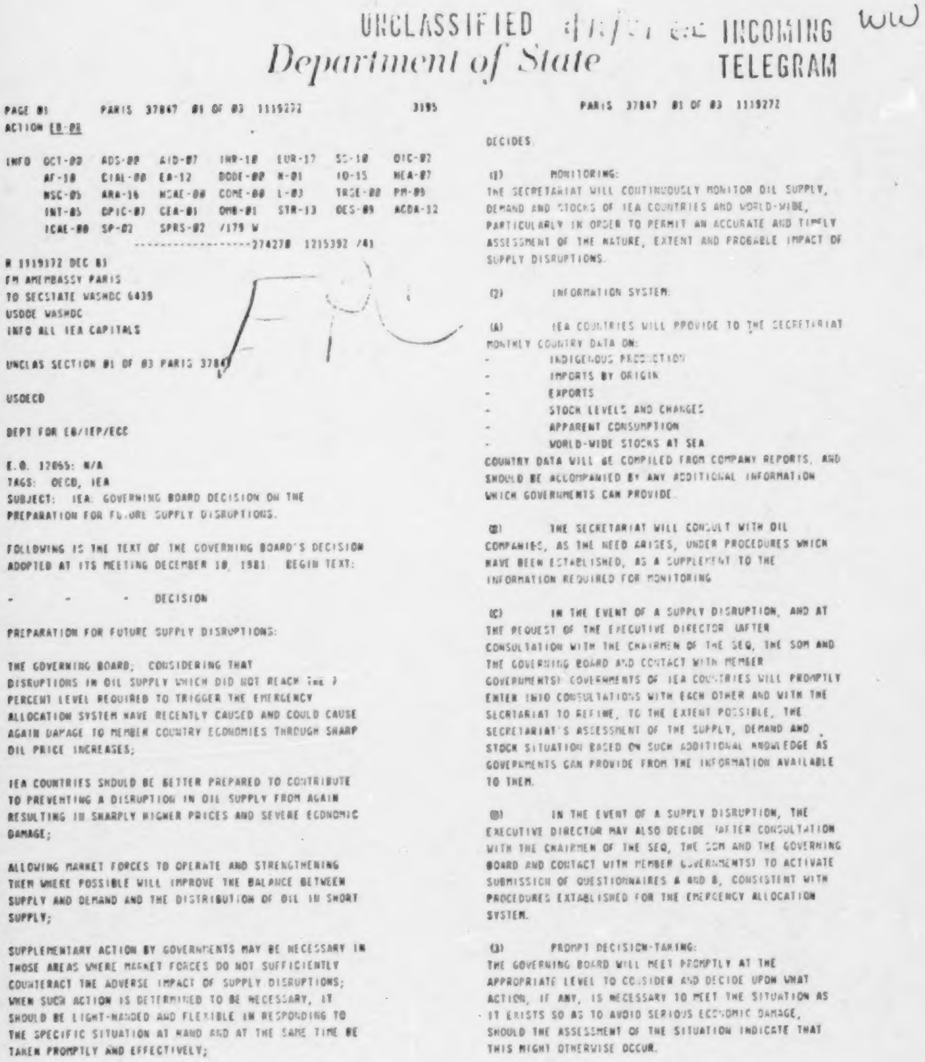
Thank you very much. That concludes the hearing this morning. Thank you.

[Whereupon, at 12:53 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

International Energy Agency Agreement on Sub-Crisis Management



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PAGE 01 PARIS 37847 01 OF 03 1119272 3195
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INT-05 OPIC-07 CEA-01 OMB-01 STR-13 OES-09 ACDA-12
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USOECD

DEPT FOR EB/IEP/ECC

E.O. 12065: N/A
TAGS: OECD, IEA
SUBJECT: IEA: GOVERNING BOARD DECISION ON THE PREPARATION FOR FUTURE SUPPLY DISRUPTIONS.

FOLLOWING IS THE TEXT OF THE GOVERNING BOARD'S DECISION ADOPTED AT ITS MEETING DECEMBER 10, 1981. BEGIN TEXT:

- - - DECISION

PREPARATION FOR FUTURE SUPPLY DISRUPTIONS:

THE GOVERNING BOARD; CONSIDERING THAT DISRUPTIONS IN OIL SUPPLY WHICH DID NOT REACH THE 7 PERCENT LEVEL REQUIRED TO TRIGGER THE EMERGENCY ALLOCATION SYSTEM HAVE RECENTLY CAUSED AND COULD CAUSE AGAIN DAMAGE TO MEMBER COUNTRY ECONOMIES THROUGH SHARP OIL PRICE INCREASES;

IEA COUNTRIES SHOULD BE BETTER PREPARED TO CONTRIBUTE TO PREVENTING A DISRUPTION IN OIL SUPPLY FROM AGAIN RESULTING IN SHARPLY HIGHER PRICES AND SEVERE ECONOMIC DAMAGE;

ALLOWING MARKET FORCES TO OPERATE AND STRENGTHENING THEM WHERE POSSIBLE WILL IMPROVE THE BALANCE BETWEEN SUPPLY AND DEMAND AND THE DISTRIBUTION OF OIL IN SHORT SUPPLY;

SUPPLEMENTARY ACTION BY GOVERNMENTS MAY BE NECESSARY IN THOSE AREAS WHERE MARKET FORCES DO NOT SUFFICIENTLY COUNTERACT THE ADVERSE IMPACT OF SUPPLY DISRUPTIONS; WHEN SUCH ACTION IS DETERMINED TO BE NECESSARY, IT SHOULD BE LIGHT-HANDED AND FLEXIBLE IN RESPONDING TO THE SPECIFIC SITUATION AT HAND AND AT THE SAME TIME BE TAKEN PROMPTLY AND EFFECTIVELY;

PARIS 37847 01 OF 03 1119272

DECIDES.

(1) MONITORING:
THE SECRETARIAT WILL CONTINUOUSLY MONITOR OIL SUPPLY, DEMAND AND STOCKS OF IEA COUNTRIES AND WORLD-WIDE, PARTICULARLY IN ORDER TO PERMIT AN ACCURATE AND TIMELY ASSESSMENT OF THE NATURE, EXTENT AND PROBABLE IMPACT OF SUPPLY DISRUPTIONS.

(2) INFORMATION SYSTEM:

(A) IEA COUNTRIES WILL PROVIDE TO THE SECRETARIAT MONTHLY COUNTRY DATA ON:
- INDIGENOUS PRODUCTION
- IMPORTS BY ORIGIN
- EXPORTS
- STOCK LEVELS AND CHANGES
- APPARENT CONSUMPTION
- WORLD-WIDE STOCKS AT SEA

COUNTRY DATA WILL BE COMPILED FROM COMPANY REPORTS, AND SHOULD BE ACCOMPANIED BY ANY ADDITIONAL INFORMATION WHICH GOVERNMENTS CAN PROVIDE.

(B) THE SECRETARIAT WILL CONSULT WITH OIL COMPANIES, AS THE NEED ARISES, UNDER PROCEDURES WHICH HAVE BEEN ESTABLISHED, AS A SUPPLEMENT TO THE INFORMATION REQUIRED FOR MONITORING.

(C) IN THE EVENT OF A SUPPLY DISRUPTION, AND AT THE REQUEST OF THE EXECUTIVE DIRECTOR (AFTER CONSULTATION WITH THE CHAIRMEN OF THE SEQ, THE SOM AND THE GOVERNING BOARD AND CONTACT WITH MEMBER GOVERNMENTS) GOVERNMENTS OF IEA COUNTRIES WILL PROMPTLY ENTER INTO CONSULTATIONS WITH EACH OTHER AND WITH THE SECRTARIAT TO REFINE, TO THE EXTENT POSSIBLE, THE SECRETARIAT'S ASSESSMENT OF THE SUPPLY, DEMAND AND STOCK SITUATION BASED ON SUCH ADDITIONAL KNOWLEDGE AS GOVERNMENTS CAN PROVIDE FROM THE INFORMATION AVAILABLE TO THEM.

(D) IN THE EVENT OF A SUPPLY DISRUPTION, THE EXECUTIVE DIRECTOR MAY ALSO DECIDE (AFTER CONSULTATION WITH THE CHAIRMEN OF THE SEQ, THE SOM AND THE GOVERNING BOARD AND CONTACT WITH MEMBER GOVERNMENTS) TO ACTIVATE SUBMISSION OF QUESTIONNAIRES A AND B, CONSISTENT WITH PROCEDURES EXTABLISHED FOR THE EMERGENCY ALLOCATION SYSTEM.

(3) PROMPT DECISION-TAKING:
THE GOVERNING BOARD WILL MEET PROMPTLY AT THE APPROPRIATE LEVEL TO CONSIDER AND DECIDE UPON WHAT ACTION, IF ANY, IS NECESSARY TO MEET THE SITUATION AS IT EXISTS SO AS TO AVOID SERIOUS ECONOMIC DAMAGE, SHOULD THE ASSESSMENT OF THE SITUATION INDICATE THAT THIS MIGHT OTHERWISE OCCUR.

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PAGE 01   PARIS 37847 02 OF 03 1119292   3286
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(4) POSSIBLE MEASURES TO SUPPLEMENT MARKET FORCES:
IN THE LIGHT OF THE SPECIFIC CIRCUMSTANCES OF THE PARTICULAR SUPPLY DISRUPTION, MEASURES TO SUPPLEMENT MARKET FORCES WHICH THE GOVERNING BOARD COULD INTER ALIA CONSIDER AS PART OF ITS DECISION UNDER PARAGRAPH 3 ABOVE, WOULD INCLUDE THOSE WHICH HAVE BEEN USED IN THE PAST, SUCH AS:
- DISCOURAGEMENT OF ABNORMAL SPOT MARKET
- PURCHASES OR OTHER UNDESIRABLE PURCHASES
- LOWERED CONSUMPTION
- SHORT-TERM FUEL SWITCHING
- HIGH LEVELS OF INDIGENOUS PRODUCTION
- STOCKS AND STOCK POLICIES, THROUGH GOVERNMENT
- CONSULTATION WITH OIL COMPANIES
- INFORMAL EFFORTS TO MINIMIZE AND CONTAIN THE
- EFFECTS OF SUPPLY IMBALANCES.

ANY MEASURES WHICH ARE AGREED UPON BY THE GOVERNING BOARD WILL BE APPLIED ON AN IEA-WIDE BASIS, ALTHOUGH THE DETAILED METHODS OF IMPLEMENTATION WILL BE DECIDED BY GOVERNMENTS IN ACCORDANCE WITH NATIONAL LAW AND THE IEP, AND COULD VARY FROM COUNTRY TO COUNTRY WHILE AIMED AT ACHIEVING THE OVERALL RESULT DESIRED ON AN INTEGRATED BASIS.

(5) RELATIONS WITH OIL COMPANIES:
GOVERNMENTS, OR A CO-OPERATIVE BASIS, WILL INDIVIDUALLY CONSULT WITH THEIR OIL COMPANIES CONCERNING ANY MEASURES WHICH MAY BE AGREED TO UNDER SECTION 4.

(6) FURTHER DEVELOPMENTS:
THE SECRETARIAT WILL KEEP CONSTANT WATCH ON THE SITUATION AS IT DEVELOPS, USING ALL INFORMATION AVAILABLE TO IT INCLUDING CONSULTATION WITH OIL COMPANIES. IF CIRCUMSTANCES CHANGE, THE GOVERNING BOARD MAY MODIFY OR DISCONTINUE ANY MEASURES WHICH MAY BE AGREED TO UNDER SECTION 4.

- - -CONCLUSIONS

EXPLANATIONS TO CLARIFY THE FOREGOING DECISION

MONITORING:
- THE SECRTARIAT'S OIL MARKET MONITORING PROCESS SHOULD INCLUDE:
- ASSESSMENT OF THE OVERALL GLOBAL DEVELOPMENT OF SUPPLY, DEMAND AND STOCKS AS A BASIS FOR IDENTIFYING GLOBAL DEVELOPMENTS WHICH COULD LEAD TO UNDUE MARKET PRESSURES;

- TESTING SHORT-TERM DEMAND FORECASTS AND

PUBLICLY AVAILABLE PRODUCTION DATA,

- ASSESSMENT OF DEVELOPMENTS IN THE SUPPLY, DEMAND AND STOCK SITUATIONS OF INDIVIDUAL COUNTRIES, FOR THE PURPOSE OF IDENTIFYING CONDITIONS WHICH COULD THEMSELVES LEAD TO UNDUE MARKET PRESSURES OR WHICH COULD CAUSE PARTICULAR DIFFICULTIES IF A SUPPLY DISRUPTION AROSE.

INFORMATION SYSTEM:

- - COMPILING COUNTRY DATA FROM COMPANY REPORTS MEANS, IN THE CASE OR REPORTING COMPANIES, THE REPORTS WHICH THEY SUBMIT TO THEIR MEMBER GOVERNMENTS AND, IN THE CASE OF NON-REPORTING COMPANIES, THE BASIS FOR DETERMINING THEIR DATA USED BY MEMBER GOVERNMENTS IN COMPILING QUESTIONNAIRE B. IF A COUNTRY HAS LEGAL OR OTHER DIFFICULTIES WHICH MAKE IT IMPOSSIBLE TO COMPLY WITH THIS PROCEDURE PRECISELY, IT SHOULD SUBMIT TO THE SECRETARIAT A DETAILED WRITTEN DESCRIPTION OF ITS PROCEDURES WITH A VIEW TO REACHING AGREEMENT ON A METHOD FOR REPORTING SUBSTANTIALLY EQUIVALENT DATA.

- THE NEW INFORMATION SYSTEM WILL CONSIST OF MONTHLY REPORTS FROM MEMBER COUNTRIES TO THE SECRETARIAT IN THE FORMAT ATTACHED AS ANNEX 1. THE SECRETARIAT SHOULD SEND OUT DETAILED REPORTING INSTRUCTIONS BEFORE THE END OF 1981. TABLE 3 (EXPECTED COUNTRY STOCK LEVELS AT THE BEGINNING OF THE NEXT SEASONAL PERIOD) AND THE SECOND HALF OF TABLE 4 (ANTICIPATED DEVELOPMENT OF STOCKS AT SEA) SHOULD, HOWEVER, BE ON A TRIAL BASIS FOR ONE YEAR. IT IS RECOGNISED THAT SOME COUNTRIES MAY IN PRACTICE ENCOUNTER DIFFICULTIES IN SUPPLYING INFORMATION UNDER TABLE 3. THESE REPORTS SHOULD BE SUBMITTED ON THE

PAGE 01 PARIS 37847 03 OF 03 111930Z 3207
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INFO OCT-00 ADS-00 AID-07 INR-10 EUR-12 SS-10 OIC-02
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UNCLAS SECTION 03 OF 03 PARIS 37847

USOECD

DEPT FOR EB/IEP/ECC

TWENTIETH DAY OF EACH MONTH, BEGINNING 20TH FEBRUARY, 1982, OR THE NEXT FOLLOWING DAY WHICH DOES NOT FALL ON A WEEKEND OR A HOLIDAY.

- THE RESULTS OF CONSULTATIONS AMONG GOVERNMENTS AND THE SECRETARIAT IN THE EVENT OF A SUPPLY DISRUPTION SHOULD PERMIT EVALUATION OF SUCH QUESTIONS AS:

- THE ABILITY, THROUGH DRAWING STOCKS AND/OR OTHER SUPPLY SOURCES, TO MAINTAIN ADEQUATE SUPPLIES WITHOUT ABNORMAL RECOURSE TO THE SPOT MARKET OR OTHER UNDESIRABLE PURCHASES, AND FOR HOW LONG;

- THE ABILITY TO MAKE SUPPLIES AVAILABLE TO COUNTRIES IN DISTRESS;

- THE AVAILABILITY OF STOCKS AT SEA TO CUSHION THE DISRUPTION;

- WHETHER SPECIFIC IMBALANCES WHICH MAY EXIST COULD THEMSELVES LEAD TO UNDUE MARKET PRESSURES.

PROMPT DECISION-TAKING:

- ORDINARILY THE GOVERNING BOARD WOULD MEET AT OFFICIAL LEVEL TO CONSIDER WHAT ACTION, IF ANY, TO TAKE IN CASE OF A SUPPLY DISRUPTION. HOWEVER, SHOULD THE CHAIRMAN OF THE GOVERNING BOARD CONCLUDE THAT THE SEVERITY OF THE SITUATION WARRANTS IT, HE MAY DECIDE (AFTER CONSULTATION WITH OTHER GOVERNMENTS) THAT THE MEETING SHOULD BE CALLED AT MINISTERIAL LEVEL.

- FOLLOW-UP TO THE FOREGOING DECISION

(A) THE CURRENT SYSTEM OF MONTHLY OIL STATISTICS WILL BE CONTINUED.

(B) THE CURRENT SYSTEM OF QUARTERLY OIL FORECASTS WILL BE CONTINUED. THE SECRETARIAT IS REQUESTED TO CONTINUE ITS DISCUSSIONS WITH THE [illegible] AND THE INDIVIDUAL OIL COMPANIES AS TO IMPROVEMENT IN COMPATIBILITY, COVERAGE AND CONTENT, AND TO KEEP THE SEQ INFORMED.

- - -OTHER ACTION

(A) THE SEQ IS REQUESTED TO CONTINUE ITS CONSIDERATION OF THE QUESTION OF CRUDE OIL PRICING, AND THE EXTENT TO WHICH IT COULD AFFECT THE DISTRIBUTION OF

PARIS 37847 03 OF 03 111930Z

OIL IN SHORT SUPPLY INTHE CONTEXT OF EMERGENCY ALLOCATION, WITH THE OBJECTIVE OF SEEKING A BASIS FOR PRACTICALAPPLICATION OF ARTICLE 10 OF THE I.E.P.

(B) THE EXECUTIVE DIRECTOR IS REQUESTED TO SUBMIT A REPORT TO THE GOVERNING BOARD ON THE FOLLOWING ASPECTS OF STOCKS:

- (1) THE GENERAL ADEQUACY OF STOCK LEVELS, INCLUDING THE NEED TO MAINTAIN STOCK LEVELS DESPITE TEMPORARY DECLINES IN OIL IMPORTS FOR REASONS OTHER THAN LONG-TERM STRUCTURAL CHANGE;

- (2) THE QUESTION OF THE MOVEMENT OF OIL TO MEMBER COUNTRIES IN PARTICULAR NEED AND METHODS FOR MOVING STOCKS INTO THE SUPPLY SYSTEM;

- (3) THE IMPLICATION OF A REDUCTION OF STOCKS IN A PARTICULAR COUNTRY OR COUNTRIES SHOULD THE SUPPLY DISRUPTION DEVELOP INTO AN EMERGENCY REQUIRING OIL ALLOCATION UNDER THE I.E.P. END TEXT
KATZ

UNCLASSIFIED

Department of State

INCOMING TELEGRAM

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PAGE 01        PARIS  38182  161123Z                                 5048
ACTION EB-08

INFO  OCT-00   ADS-00    AID-07   INR-10    EUR-12    SS-10     CIAE-00
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INFO ALL IEA CAPITALS

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USOECD

DEPT FOR EB/IEP/ECC - JANICE LYON

DOE FOR IA/HEGBURG

E.O. 12065: N/A
TAGS: ENRG, OECD, IEA
SUBJECT: U.S. STATEMENT AT IEA/GOVERNING BOARD MEETING, DECEMBER 10, 1981

FOLLOWING IS TEXT OF U.S. STATEMENT ON PREPARATIONS FOR FUTURE SUPPLY DISRUPTIONS DELIVERED BY DOE ASSISTANT SECRETARY THOMAS AT DECEMBER 10, 1981 IEA/GOVERNING BOARD MEETING.

BEGIN TEXT. THE UNITED STATES WELCOMES THIS DECISION. AT THE SAME TIME WE MUST STATE FOR THE RECORD OUR UNDERSTANDING OF IT. THE UNITED STATES REMAINS COMMITTED TO RELIANCE ON FREE MARKET FORCES AS THE MOST EFFECTIVE RESPONSE TO SUPPLY DISRUPTIONS. WE ARE PLEASED TO NOTE THE INCLUSION OF THIS THOUGHT IN THE PREAMBLE OF THE DECISION AS A GUIDING PRINCIPLE FOR IEA DISCUSSIONS OF MARKET DISRUPTIONS. THE DECISION ESTABLISHES A BASIS FOR FUTURE IEA CONSULTATIONS IN THE EVENT OF SUB-TRIGGER SUPPLY DISRUPTIONS. HOWEVER, IT DOES NOT COMMIT IEA COUNTRIES IN ADVANCE AS TO THE SPECIFIC ACTIONS WHICH THEY MIGHT TAKE IN SUCH CIRCUMSTANCES. MOREOVER, WE NOTE THE FACT THAT ANY ACTIONS TAKEN IN RESPONSE TO FUTURE DISRUPTIONS MUST BE CONSISTENT WITH NATIONAL LAW AND THE AGREEMENT ON AN INTERNATIONAL ENERGY PROGRAM, AND THAT THIS MAY VARY FROM COUNTRY TO COUNTRY. END TEXT. KATZ

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Appendix II

Testimony of Assistant Secretary of Energy William A. Vaughan on Energy Emergency Preparedness Before the Subcommittee on Interior and Related Agencies of the Appropriations Committee on March 31, 1982, and Responses to Certain Questions for the Record

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Statement of William A. Vaughan
Assistant Secretary, Environmental Protection,
Safety, and Emergency Preparedness
Department of Energy
Before the
Committee on Appropriations
Subcommittee on Interior and Related Agencies

INTRODUCTION

Mr. Chairman and members of the Subcommittee, it is my pleasure to appear before you today in support of the President's budget proposals for FY 1983 for the Office of Energy Emergencies, the Strategic Petroleum Reserve, and the Naval Petroleum and Oil Shale Reserves. The Department's energy emergency preparedness responsibilities are centered in these three program offices under my direction. I am accompanied this morning by Mr. Ronald L. Winkler, the Deputy Assistant Secretary for Energy Emergencies; Mr. Richard D. Furiga, the Deputy Assistant Secretary for the Strategic Petroleum Reserves; and Captain Gordon R. Gilmore, USN, Director of the Naval Petroleum and Oil Shale Reserves.

Before going into the specific budget requests for each of these offices, I would like to take a moment to discuss our approach to energy emergency preparedness.

The overriding goals of the Department's energy emergency preparedness program are to reduce the Nation's vulnerability to energy supply disruptions and to mitigate their impacts on the Nation. This Administration has redefined significantly our method of achieving this. We have abandoned the policy of extensive Federal intervention such as oil allocation, price controls, and mandatory demand restraint measures, because we found they created or exacerbated the adverse economic and social impacts.

Our strategy to achieve these goals is to rely primarily on the marketplace to respond to disruptions in energy supplies and to fill the Strategic Petroleum Reserve. Accordingly, we seek to remove barriers to short-term adjustments in the marketplace. Since the basic problem of a major energy supply disruption is the economy's difficulty in adjusting rapidly, one useful solution is to develop adequate crude oil stocks that can be drawn down in an emergency. Both private and Government-owned stocks are effective in dealing with oil supply disruptions, associated economic losses and national security threats. For the United States, protection against severe disruptions in petroleum supplies includes the Strategic Petroleum Reserve. In addition to our commitment to the SPR, we want to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives for private stockbuilding. The Naval Petroleum Reserves are also producing at the maximum efficient rate and will sell the Government's share of production to the Department of Defense to aid them in establishing secure sources of supply.

Stimulating public understanding of the need to plan for energy emergencies and to facilitate effective communications during crises is another program priority. An important part of this effort is to encourage suppliers, consumers, and State and local governments to develop their own contingency approaches. Also, we are working closely with the International Energy Agency (IEA) to develop coordinated responses among the 21 members during a major supply disruption.

The balance of my testimony provides pertinent details of the Energy Emergencies Program, the Strategic Petroleum Reserve, and the Naval Petroleum and Oil Shale Reserves.

ENERGY EMERGENCIES PROGRAM

Our energy emergency strategy relies primarily on market mechanisms, coupled with self-help and liaison programs. In this way, we will facilitate free market responses to energy emergencies, and coordinate energy emergency planning. Because energy is critical to U.S. national security and defense needs, our planning also assesses vulnerability to terrorism and sabotage of the Strategic Petroleum Reserve, the Naval Petroleum and Oil Shale Reserves, the electric utility network, natural gas and petroleum pipelines, and other parts of the energy system. We have other on-going programs to improve energy emergency preparedness, including participation in the Emergency Mobilization Preparedness Board.

ORGANIZATION

The Office of the Deputy Assistant Secretary for Energy Emergencies develops emergency preparedness strategies and programs to reduce U.S. vulnerability to energy supply disruptions. Its two components are the Offices of Energy Contingency Planning and Energy Emergency Operations.

The Office of Energy Contingency Planning develops new initiatives, analyzes energy emergency issues, develops and tests emergency responses, and evaluates the probable consequences of such responses for other nations, Federal and State governments, industry, and individuals. The names of the Office's two Divisions describe their functions: Plans Development and Testing, and Scenario Development and Response Strategy Analysis.

The Office of Energy Emergency Operations monitors, reviews and analyzes data about energy resources as they relate to possible emergency situations, determines the imminence and potential magnitude of a shortage, and assesses its resulting impacts. The names of its two Divisions describe their main functions: National Security and Emergency Operations, and Energy Supply Evaluation and Risk Assessment.

FY 1982 ACTIVITIES AND ACCOMPLISHMENTS

Some of the highlights of FY 1982 activities and accomplishments are as follows:

Enhancing Supplies. We are responsible for various planning activities with respect to the Strategic Petroleum Reserve and the Naval Petroleum Reserves. Accordingly, we are developing an SPR Distribution Management Manual which identifies logistical, legal, and managerial requirements to distribute and use crude oil from the SPR. We are also evaluating and developing alternate drawdown approaches for SPR use in potential crises. To encourage private stocks we are evaluating options to eliminate disincentives, and studying possible incentives which might be appropriate.

Mitigating Impacts. Since we support U.S. involvement in the International Energy Agency, we are developing contingency plans for a National Emergency Sharing Organization and a mechanism to backstop voluntary offers by U.S. oil companies should the IEA emergency system be triggered. We are also developing plans for U.S. participation in the IEA's Allocation System Test-4 in the spring of 1983. Another project examines financial and economic impacts of energy supply disruptions, and the feasibility of recycling selected revenues.

Developing Essential Information. To meet statutory requirements or to fulfill our public responsibilities in emergencies, it is essential for the Department to analyze and disseminate certain information. For this reason we are developing a public information plan which will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs, and which will provide effective communications during a crisis. We are also developing and refining a daily energy situation report--an "early warning" system to provide accurate and timely assessments of domestic and international energy markets and conditions. In addition, we are developing a rapid information retrieval and analytical capability utilizing EIA data and expertise.

Coordinating With Other Agencies, States and Localities, and the Private Sector. Government cannot and should not attempt to accomplish the emergency preparedness task alone. To obtain needed industry expertise in planning for and responding to energy emergencies, we are considering the revitalization of the long dormant Executive Manpower Reserves--the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve and the Emergency Solid Fuels Reserve. The Reserves will provide a role for both energy producers and consumers as well as for State and local governments, financial institutions, and other businesses, on a volunteer basis, without establishing a permanent bureaucracy.

In addition to the Manpower Reserves programs, we have a responsibility to coordinate our activities with other State and local governments as well as with other Federal agencies. To facilitate communication, we maintain the DIALCOM electronic mail system with most States, the Regional Electric Reliability councils, energy associations and their regional and state affiliates.

Supporting Defense Preparedness. Several plans to support defense preparedness are under development, including National Oil Board plans to support the U.S. commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization. We are also developing plans to implement the Defense Production Act Requirements to ensure energy supplies for defense needs.

Conducting Tests. We are planning for and testing various programs, including: IEA preparedness for energy emergencies, civil emergencies, military traffic, and Continuity of Government. We have just finished testing our Continuity of Government Plan and are preparing to test the Strategic Petroleum Reserve draw down management process.

FY 1983 EMERGENCY PREPAREDNESS BUDGET

The FY 1983 budget request for the Office of Emergency Preparedness is $5.4 million, a decrease of $4.8 million from the FY 1982 appropriation.

During FY 1983, our emphasis will be to enhance FY 1982 planning and operating readiness initiatives so we can assess national security needs and identify necessary responses during an energy emergency.

To carry out these objectives, the program will maintain and improve upon in-house expertise for planning and operations, thereby reducing the need for outside contract support.

Operating expenses for Emergency Planning are $960,000, down $1,200,000 from the $2,200,000 appropriated for FY 1982. This appropriation will permit us to address practical energy emergency problems, develop new responses, and analyze policy issues surrounding energy supply emergencies, consistent with the Administration's market-based energy approach. Another emphasis is our support for voluntary U.S. company participation in the IEA oil sharing program during emergencies. We will also be involved with NATO-related planning for oil supply and distribution and will develop scenarios to profile potential emergencies and develop and test appropriate responses.

Our FY 1983 request for operating expenses for Emergency Operations is $1,200,000, $1,700,000 less than the $2,900,000 appropriated the year before. Such an appropriation will allow us to implement defense programs and prepare to coordinate communications and operations during energy emergencies. Thus we will focus on programs to provide accurate and timely information to State and local governments and the general public. Where possible, we shall use existing capabilities such as interagency support agreements and Federal/State coordination mechanisms.

The next segment of my testimony concerns the Strategic Petroleum Reserve.

FY 1983 SPR BUDGET

SPR OIL ACQUISITION ACTIVITIES

We have made a great deal of progress over the past year in filling the Reserve. As of March 22, 1982 the Strategic Petroleum Reserve contained 244 million barrels of crude oil and has a maximum draw down capability of 1.7 million barrels per day.

The total fill for calendar year 1981 was 122.5 million barrels, resulting in a cumulative fill of 230.3 million barrels by the end of 1981, which doubled the Reserve inventory from the December 1980 level. We exceeded an average daily fill rate of 300 thousand barrels per day for seven months last year with the highest rate of 513 thousand barrels per day achieved in May.

We used several methods to acquire SPR oil during 1981:

- 81 million barrels were acquired under a continuous open solicitation, taking advantage of the favorable spot market conditions which prevailed during this period.
- 20 million barrels were acquired under a commercial contract with Petroleos Mexicanos (PEMEX) in 1981.
- 20.7 million barrels were delivered under the Naval Petroleum Reserves (NPR) exchange agreements entered into in 1980 and from an NPR contract settlement.
- .8 million barrels of Alaskan North Slope crude oil were delivered to the SPR as part of a final settlement of a Consent Order.

There were four reasons for the SPR's oil acquisition success over the past year: (1) the policy impetus and sustained support of top Administration officials; (2) availability of oil storage capacily which had been left unfilled when this Administration took office; (3) favorable oil market conditions; and (4) Congressional approval of nearly $5 billion in appropriations requested by President Reagan since he took office.

For the remainder of FY 1982, we have an additional 23 million barrels under contract and scheduled for delivery. This will increase our cumulative SPR inventory to 267 million barrels at the end of FY 1982.

Since we now have contracted for most of the oil to be delivered to SPR facilities for the remainder of this fiscal year, we have temporarily deferred accepting further offers under the continuous open solicitation. Later this year we will again accept offers for short-term delivery as new storage capacity becomes available. We also plan to solicit contracts later this year for deliveries of oil to fill Phase II storage capacity during fiscal year 1983.

FACILITIES DEVELOPMENT AND OPERATION

We are developing the SPR program in three separate phases to provide 750 million barrels of capacity.

Phase I consists of 250 million barrels of storage capacity at five sites - Bryan Mound in Texas; and Bayou Choctaw, West Hackberry, Weeks Island and Sulphur Mines in Louisiana. It also includes construction of a government-owned terminal facility at St. James, Louisiana. Construction was completed on these sites in 1980, and we expect to complete actual oil fill of Phase I storage in FY 1982.

Under Phase II, we will gain an additional 290 million barrels of storage by expanding three existing Phase I sites. Bryan Mound is being expanded by 120 million barrels, West Hackberry by 160 million barrels and Bayou Choctaw by 10 million barrels. An existing storage cavern will be acquired for the additional capacity at Bayou Choctaw. New caverns will be created at Bryan Mound and West Hackberry through solution mining. Construction of all Phase II surface facilities was completed in 1981.

We started leaching of Phase II caverns at Bryan Mound in 1980 and at West Hackberry in May 1981. To date approximately 50 million barrels of gross cavern volume have been created in the Phase II caverns and we have begun injecting oil into the seven caverns which are available for oil fill at Bryan Mound. Acceleration of cavern development is being achieved through an increase of the leaching rate, which required modification of the brine disposal permit. This permit was granted last August by the Environmental Protection Agency. The increased leaching rate will provide 47 million barrels of additional storage capacity by the end of 1985 over the projections in the FY 1982 budget.

Phase III involves the further expansion of Bryan Mound and West Hackberry by an additional 70 million barrels and development of a new 140 million barrel site at Big Hill, Texas. The Big Hill site, as currently planned, will include fourteen new caverns and the necessary surface facilities, and when filled will increase the SPR drawdown rate to almost 4.5 million barrels per day. The Final Supplemental Environmental Impact Statement for SPR Phase III Development was published in October 1981, with the Record of Decision issued in January 1982. Detailed design was started in 1981, and Phase III construction will begin at Bryan Mound in 1982.

We have submitted a deferral to FY 1983 of FY 1982 budget authority for Big Hill land acquisition and long lead equipment. As the result of an Administration decision to delay completion of the 750 million barrel system by one year, to 1990, start of Big Hill construction is to be delayed one year, until 1984. This delay will have no effect on available storage capacity until 1987. Detailed design, however, will continue in FY 1982.

FY 1983 BUDGET REQUEST

The President's FY 1983 budget proposes a total of $2,316,178,000 in appropriations for the Strategic Petroleum Reserve. Of this total, $242,118,000 is for the on-budget Strategic Petroleum Reserve account to be used for storage facilities development and operations, planning, and program direction, and $2,074,060,000 is for the off-budget SPR Petroleum Account. A further element of the President's FY 1983 budget is the deferral of $52,860,000 in FY 1982 appropriations for certain Phase III development activities.

During FY 1983 we will continue to fill the Strategic Petroleum Reserve to the full level of storage capacity as it becomes available. We expect to fill the SPR at an average daily fill rate of about 209 thousand barrels per day which would increase the cumulative fill level to 343.1 million barrels by the end of FY 1983.

OFF-BUDGET APPROPRIATION FOR PETROLEUM ACQUISITION AND TRANSPORTATION

The President's FY 1983 budget proposes an appropriation of $2,074,060,000 to the off-budget "SPR Petroleum Account" established pursuant to the Omnibus Budget Reconciliation Act of 1981. We plan to by 53 million barrels from the proposed FY 1983 appropriation, about 7 million barrels of which will be delivered in FY 1983, with the remaining 46 million barrels planned for delivery in FY 1984.

Since our existing appropriations through FY 1982 will permit contracting for a cumulative 336 million barrels, we are nearly in a position to fill the SPR storage capacity through the end of FY 1983 using only FY 1982 and prior year funding.

The substantial purchasing power of our FY 1982 and prior year funds explain why the further appropriations proposed for FY 1983 are significantly below the FY 1982 budget authority level. Actual outlays are expected to be approximately the same in FY 1982 and FY 1983--above $2.8 billion in each year. As provided by the Omnibus Budget Reconciliation Act of 1981, these outlays are not counted within Federal budget totals.

FACILITIES DEVELOPMENT

The FY 1983 budget request for facilities development and operations is $222,528,000. The proposed FY 1983 budget will permit continuation of Phase II capacity development, completion of Bryan Mound-Phase III construction, and continued development of West Hackberry. With respect to facilities development, the proposed FY 1983 budget updates the baseline schedule for leaching new storage capacity primarily due to the decision to increase the leaching rate at the Bryan Mound site. As a result, we are now projecting a cumulative oil storage capacity of 456 million barrels by the end of FY 1985, an increase of 47 million barrels from the 409 million barrel projection for FY 1985 associated with the FY 1982 budget baseline. The deferral of funding for long-lead equipment purchases and real estate acquisition for the Big Hill

Phase III site from FY 1982 to FY 1983 is the result of a decision to delay completion of the 750 million barrel system from FY 1989 to FY 1990. In the context of the Administration's policy of fiscal restraint, the reconfiguration of the SPR facilities development schedule represents the Administration's decision to focus SPR resources on the near-term (e.g. pre-1985) period when we are relatively more vulnerable. The one-year delay in initiation of Big Hill construction will reduce outlays by $175,000,000 in FY 1983 and FY 1984 while having no effect on storage capacity until 1987. At that point, the SPR will be more than two-thirds filled and the nation considerably less vulnerable to supply disruptions.

NON-PHASE SPECIFIC

This funding category was established several years ago to finance SPR facilities requirements not directly associated with specific phases of SPR development. For FY 1983, we propose a total of $86,728,000 for Non-Phase Specific activities, including Continuing Engineering ($8,648,000), Operations and Maintenance ($37,345,000) and Safety, Reliability, and Security Upgrades ($40,735,000).

Continuing Engineering activities in FY 1983 will remain at approximately the FY 1982 level and are required to identify and resolve technical problems, maintain an accurate definition of the SPR system and promote an integrated systems approach to SPR development activities.

Operations and Maintenance activities will be required for the duration of the SPR program but are particularly intensive during the period of facilities development and fill. Some operations and maintenance activities are funded within specific Phases, particularly those directly associated with storage cavern development. Others are funded through this Non-Phase Specific activity. The increase in budget authority proposed for FY 1983 reflects a combination of our ongoing reestimation and definition of operations and maintenance requirements plus the particular manner in which funding for these requirements is distributed among budget line items.

The Safety, Reliability and Security Upgrades program is an ongoing effort to modify existing SPR facilities from the original design criteria to new and more stringent criteria which emphasize safety, reliability, and security and provide more assurance of readiness of the SPR system for drawdown. A backlog of these projects has developed and the increase in funding in FY 1983 is intended to reduce this backlog and enhance system performance capabilities.

The final portion of my testimony covers the Naval Petroleum and Shale Oil Reserves.

NPOSR BACKGROUND

The Naval Petroleum and Oil Shale Reserves (NPOSR) consist of three petroleum reserves — two in California and one in Wyoming -- and three oil shale reserves — two in Colorado and one in Utah. They were established by a series of Executive Orders between 1912 and 1924 to provide a source for emergency petroleum supplies for the Navy.

Naval Petroleum Reserve No. 1 (NPR-1) consists of 47,985 acres located 35 miles southwest of Bakersfield, in Kern County, California. It was established in 1912 after the Secretary of the Navy asked for the cooperation of the Secretary of the Interior in securing the reservation for the Navy of oil-bearing public lands in California sufficient to insure a supply of 500 million barrels of oil. In response to this request, the U.S. Geological Survey recommended an area, Elk Hills in Kern County. Subsequent exploration has proven the wisdom of that choice, as recoverable reserves exceeded 1 billion barrels.

Naval Petroleum Reserve No. 2 (NPR-2) consists of 30,181 acres adjacent to and south of NPR-1. It was also established by Executive Order in 1912, and has been leased continuously since the early 1920's, producing over 600 million barrels of crude oil and leaving now only about 3% of recoverable reserves in place. Naval Petroleum Reserve No. 3 (NPR-3) consists of 9,481 acres located 35 miles north of Casper, Wyoming, in Natrona County. This Reserve was established by Executive Order in 1915. It was developed and produced until December 31, 1927, when the Reserve was shut-in following action by the Government to cancel the leases. The field remained in a shut-in status until the 1976 Production Act, except for a short exploratory program during 1951-1953, and an off-set drilling and production program initiated in 1958 to prevent drainage from the Reserve.

In 1976, the Naval Petroleum Reserves Production Act was passed which mandated that the Reserves be produced at their maximum efficient rates for six years, ending April 5, 1982. This Act also included provisions for extending production beyond that date in three year increments. It was intended that revenues from the sale of the petroleum would help offset the costs of exploring and developing the Reserves and the costs related to the Strategic Petroleum Reserve which was authorized in 1975. The 1976 Act did not change the national defense character and mission of the Naval Petroleum Reserves.

The Naval Oil Shale Reserves were originally set-aside as a further guarantee of oil for the Navy in future emergencies. Until 1977, the only activity at the Naval Oil Shale Reserves had been research conducted at a facility on Naval Oil Shale Reserve No. 3. In 1977, a Five-Year Predevelopment Program was initiated to analyze the resource, technical, environmental and socioeconomic factors related to future development of the Oil Shale Reserves. In regard to oil shale, this work largely has been completed. Assessment of the conventional oil and gas potential of these Reserves is continuing.

FY 1981 AND FY 1982 PROGRAM HIGHLIGHTS AND ACCOMPLISHMENTS

The Naval Petroleum and Oil Shale Reserves continued in 1981 to demonstrate their flexibility as vital national defense resources by providing petroleum both to the Department of Defense and to the Strategic Petroleum Reserve. The Reserves also contributed to the local petroleum industry by providing high quality crude oil, natural gas and liquid products for sale. Sale and exchanges for the Government's share of petroleum produced at the Reserves generated revenues of $1.6 billion for the U.S. Treasury, with program expenditures of approximately $216 million.

A major decision was reached in 1981 to continue production of the Naval Petroleum Reserves at their maximum efficient rates for three years beyond the initial six-year period ending April 4, 1982. Although the decision by the President was based primarily on economic considerations, the Department of Defense will benefit by receiving all of the Government share of crude oil production from the Reserves beginning May 1, 1982. DOD will exchange the crude for military fuels delivered at various locations in the United States. The exchange is open to all companies regardless of size thereby assuring competition. This assured supply of oil will help insulate the Department of Defense from the adverse impacts of future crude oil shortages.

Oil produced at Naval Petroleum Reserve No. 1 was also used indirectly to help resume fill of the Strategic Petroleum Reserve. The exchange program through which NPR-1 oil was exchanged for oil delivered to SPR storage sites was concluded November 1, 1981. Over the year preceding that date, an average of 103,472 BOPD were sold to six companies who provided an equivalent amount, totaling 36.7 million barrels, for storage in the Strategic Petroleum Reserve.

The past year was also notable in that the largest Reserve, NPR-1, reached its peak production rate. Production averaged 171,533 BOPD for the year, peaking at 181,800 BOPD in July 1981. The production rate had declined to about 172,000 BOPD by the end of calendar year 1981, and the rate will continue to decline as the Reserve is produced at the maximum efficient rate. Production of oil at NPR-3 remained stable, averaging 3,393 BOPD in 1981.

Attached to this statement is a statistical summary which includes exploration, development, production and revenue data for fiscal years 1981, 1982 and 1983.

FY 1983 BUDGET REQUEST

The FY 1983 Budget Request of $232,500,000 supports the President's decision to continue production of the Naval Petroleum Reserves at their maximum efficient rates and the Secretary's decision to forego further activity at the Naval Oil Shale Reserves at this time.

The budget request for the Naval Petroleum Reserves in California (NPR-1 and NPR-2) is $207,417,000. The funding is requested in four categories: (1) Operations and Maintenance ($102,267,000); (2) Exploratory Drilling ($10,000,000); (3) Development Drilling ($89,813,000); and (4) Development Facilities ($5,337,000).

The bulk of the Operations and Maintenance funds will be used to continue normal oil-field operations. For example, $38,025,000 will be used for the normal maintenance and repair of pipelines, tank settings and other field equipment; maintenance of the roads; operation of the water injection systems; maintenance of the electrical distribution system; and related activities. Another $17,198,000 will be used to fund various remedial actions needed to maintain wells in an optimum producible condition. Such actions include recompletions, well stimulation measures, artifical lift installations, and others. At an average cost of about $60,000 per well, the budget would permit work on an estimated 282 wells.

Also, in the Operations and Maintenance category, some $20,462,000 will be needed for the operations and maintenance of the gas plants and the liquid products loading racks. This covers all the facilities which are processing about 300 MMCF/D of natural gas and 600 thousand gallons per day of liquid products.

The request of $89,813,000 for Development Drilling is based on an optimum drilling program including water and gas injection as well as producing wells. To maintain maximum efficient production, an estimated 80 to 90 wells will be required annually for some period; this request provides for 85 wells.

The Development Facilities request is for $5,337,000. This category is reduced from prior years because the major constuction project at NPR-1, the California Development Project consisting of 25 separate construction projects, has been fully funded for $361,200,000. Because it has been determined that one of the projects, the rail-loading facility, will not be needed, with the Committee's concurrence, $5,000,000 of those funds will be applied to FY 1983 facility projects. The total facility construction program for FY 1983, therefore, will consist of $10,335,000 for a variety of field projects.

The Exploration Drilling request is for $10,000,000. This will fund three wells to be drilled in areas with geological characteristics similar to current producing areas.

The FY 1983 Budget Request for Naval Petroleum Reserve No. 3 (NPR-3) is $19,855,000. Almost two-thirds of this request, $12,605,000, is to support routine Operations and Maintenance activities. The other requests include $5,750,000 for the Development Program, most of which is for drilling in-fill wells, and $1,500,000 for the operation and evaluation of the Enhanced Oil Recovery Pilot projects. If the pilot program is successful, full-scale operations would be inititated in FY 1984.

The Naval Oil Shale Reserves request has been reduced in FY 1983 to $90,000. This reflects completion of the Five-Year Predevelopment Program for these Reserves to assess the resource and the preparation of a Programmatic Environmental Impact Statement. The program has been very successful in providing information which will greatly expedite a development program at the appropriate time. The FY 1983 request will support a limited monitoring of the environment, including hydrology, and will fund the land management program conducted by the Bureau of Land Management.

The final category is Program Direction, which is used primarily to pay salaries, benefits, travel and training for the 120 Civil Service employees who manage this program. The FY 1983 Budget Request for this category is $5,138,000.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions.

Attachment

SELECTED STATISTICAL DATA

	FY 1981 Actual	FY 1982 Estimated	FY 1983 Estimated
NPR-1			
Production			
Oil (MBOPD)	171.5	172.0	157.0
Liquid Products (MGAL/D)	508.3	617.0	700.0
Gas (MMCF/D)	276.8	304.0	350.0
Revenue ($ Million)			
Oil*	$1,430.5	$1,536.2	$1,455.7
Liquid Products	82.0	92.6	116.3
Gas	61.5	71.6	78.9
TOTAL	$1,574.0	$1,700.4	$1,650.9
Wells			
Drilled (Annual)	49	95	88
Cumulative (All Sources)	2,055	2,150	2,238
Producible	1,160	1,262	1,299
Average Wells on Production	1,081	1,161	1,195
NPR-3			
Production			
Oil (MBOPD)	3.4	3.6	3.0
Liquid Products (MGAL/D)	16.1	16.0	18.0
Gas (MMCF/D)	7.7	8.0	8.0
Revenue ($ Million)			
Oil*	$44.9	$46.9	$39.7
Liquid Products	2.3	2.9	3.2
Gas	.1	2.3	2.5
TOTAL	$47.3	$52.1	$45.4
Wells			
Drilled (Annual)	22	23	21
Cumulative (All Sources)	679	702	723
Producible	454	460	470
Average Wells on Production	439	450	460

* Includes Windfall Profit Tax

QUESTIONS ON ENERGY EMERGENCY PREPAREDNESS

General

1. When was it decided to employ the energy emergency preparedness strategy set forth in your testimony on March 31, 1982, before the Subcommittee on Interior and Insular Affairs?

2. Was this approach approved by the Cabinet Council ? If so, when ? If not, will it be submitted to the Cabinet Council ?

3. Would you please supply copies of relevant background documents ?

Enhancing Supplies

4. With regard to development of a Strategic Petroleum Reserve (SPR) Distribution Management Manual,

   a. When was it decided to develop a SPR Distribution Management Manual ?

   b. What is the relationship of the Manual to the SPR Drawdown Plan ?

   c. What are the logistical, legal, and managerial requirements referred to ?

   d. Would you please supply copies of relevant background documents that would set forth the schedule and scope of this activity ?

5. With regard to alternative drawdown approaches for use of SPR oil in a potential crisis,

   a. When, and on what schedule, was it decided to undertake a review of alternative SPR drawdown approaches ?

   b. Would you describe in detail the alternative drawdown approaches under consideration ?

   c. Would you anticipate that a revised Drawdown Plan will be submitted to the Congress and, if so, on what schedule ?

   d. Was this approach approved by the Cabinet Council ? If so, when ? If not, will it be submitted to the Cabinet Council ?

   e. Would you please supply copies of relevant background documents that would set forth the schedule and scope of this activity ?

6. With regard to encouragement of private stocks,

   a. When, and on what schedule, was it decided to encourage private stocks ?

   b. What are the options being evaluated to create incentives and to eliminate disincentives ?

   c. Would you please supply copies of relevant background documents that would set forth the schedule and scope of this activity?

   d. Was this approach approved by the Cabinet Council ? If so, when ? If not, will it be submitted to the Cabinet Council ?

Mitigating Impacts

7. Describe in detail what the Administration is doing to develop coordinated responses among the IEA members.

   In particular, describe in detail:

   (a) the contingency plans for a National Emergency Sharing Organization;

   (b) DOE's mechanism to backstop voluntary offers by U.S. oil companies should the IEA emergency system be triggered;

   (c) the Administration's plans for U.S. participation in the IEA's Allocation System Test-4 in the Spring of 1983;

   (d) DOE's analysis of financial and economic impacts of energy supply disruptions; and

   (e) DOE's analysis of the feasibility of recycling selected revenues.

8. With regard to question 7,

   a. Were these approaches approved by the Cabinet Council ? If so, when ? If not, will they be submitted to the Cabinet Council ?

   b. Would you please supply copies of relevant background documents that would set forth the schedules and scope of these activities ?

9. Describe in detail what the Administration is doing to encourage suppliers, consumers and state and local governments to develop their own contingency plans.

Developing Essential Information

10. Describe in detail:

    (a) the DOE's public information plan;

    (b) what the Administration is doing to facilitate effective communication during an oil supply crisis;

    (c) the DOE's daily energy situation report;

    (d) the DOE's rapid information retrieval and analytical capability; and

    (e) the DIALCOM electronic mail system.

11. With regard to the activities included in question 10, would you please supply copies of relevant background documents that would set forth the schedules and scope of these activities ?

12. With regard to utilization of IEA data and expertise, what is the authority for such information retrieval and analytical capability ?

Coordination with Other Agencies, States and Localities, and the Private Sector

13. With regard to revitalization of the Executive Manpower Reserves,

    a. Would you describe in detail the Executive Manpower Reserves -- the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve, and Emergency Solid Fuels Reserve ?

    b. Would you describe the statutory authority for such Reserves ?

    c. Was this approach approved by the Cabinet Council ? If so, when ? If not, will it be submitted to the Cabinet Council ?

    d. Would you please supply copies of relevant background documents that would set forth the schedule and scope of these activities ?

14. With regard to question 13, would you describe any additional statutory authority that might be required to effectuate revitalization of the Executive Manpower Reserves ?

    In particular, would you address any additional statutory authority that would be required to facilitate participation in the Reserves by energy producers ?

Supporting Defense Preparedness

15. With regard to plans to support defense preparedness,

    a. Would you describe in general terms those plans ?

    b. Would you describe in detail plans to support the National Oil Board, including the United States commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization ?

    c. Would you describe in detail plans to implement the Defense Production Act Requirements to ensure energy supplies for defense needs ?

    d. When was it decided to proceed with these activities ?

    e. Were these activities approved by the Cabinet Council ? If so, when ? If not, will they be submitted to the Cabinet Council?

    f. Would you please supply copies of relevant background documents that would set forth the schedule and scope of these activities ?

16. Describe in detail the Administration's program regarding assessing the vulnerability to terrorism and sabotage of the SPR, the Naval Petroleum and Oil Shale Reserves, the electric utility network, pipelines and other parts of the U.S. energy system.

Conducting Tests

17. With regard to the planning for and testing of various energy emergency programs,

    a. Would you describe the programs involved ?

    b. Would you describe in detail the results of the tests of the Continuity of Government Plan ?

    c. Would you describe in detail plans for the testing of IEA preparedness for energy emergencies, civil emergencies, and military traffic ?

    d. Would you describe in detail plans to test the Strategic Petroleum Reserve drawdown management process ?

    e. Would you please supply copies of relevant background documents that would set forth the schedule and scope of these activities ?

DRAFT - NOT FOR CIRCULATION

Energy Emergency Preparedness

General

Question 1: When was it decided to employ the energy emergency preparedness strategy set forth in your testimony on March 31, 1982, before the Subcommittee on Interior and Insular Affairs?

Answer: Our strategy is an evolving one. Therefore, there is no one date for any particular component. In regard to the market reliance philosophy, the basis of our current strategy, the President clearly stated that philosophy during the campaign.

This Administration first demonstrated its strategy by decontrolling oil in January 1981. Moreover, the Administration has communicated its intention to pursue such a strategy on many occasions. Two examples (attached) of such communication are:

- DOE Report (DOE/S-0008), The National Energy Policy Plan, July 1981 (Retained in Committee files).
- DOE Report (DOE/EP-0027), Domestic and International Energy Emergency Preparedness, July 1981

In addition, testimony before various committees and responses to specific Congressional inquiries has consistently explained Administration policies and strategies on energy emergency preparedness.

DOE/EP-0027

U.S. Department of Energy

July 1981

Assistant Secretary for
Environmental Protection, Safety,
and Emergency Preparedness
Washington, D.C. 20585

DOMESTIC AND INTERNATIONAL ENERGY EMERGENCY PREPAREDNESS

I. INTRODUCTION

This Department of Energy report contains an analysis of domestic and international energy emergency preparedness issues. It responds to questions raised by members of the Senate Energy and Natural Resources Committee and others. It represents the efforts of an interagency task force and reflects Administration policy positions where specific statements are made to that effect.

II. WORLD OIL MARKET TRENDS, INTERRUPTION THREATS, IMPACTS

A. General Market Trends

The decade of the eighties, unlike the seventies, is starting with a common understanding by officials of major oil importing nations that oil is expensive and less than a reliable source of energy. The oil embargo of 1973/74, fluctuations in supplies during 1979 resulting from the Iranian upheaval, continuing concerns about the stability in the Middle East and the 1100 percent price increase for oil since 1970 have resulted in fundamental changes in the production and use of oil throughout the world.

A significant trend away from oil reliance has begun to emerge. World oil production peaked in 1979 at 62.4 million barrels per day (MB/D), and declined to 59.5 MB/D in 1980 (see Table 1). Capital investment in alternative fuels and more energy efficient equipment and buildings has been substantial. By 1990, assuming recent trends continue, U.S. imports could decline to as low as 2 MB/D, (DOE estimates in the National Energy Policy Plan range from 2 tc 7 MB/D) and imports of other member countries of the International Energy Agency (IEA) could decline as well, reducing reliance on Middle East oil. It is also significant that non-OPEC oil producers have increased their share of the oil export market. In 1973, OPEC producers accounted for 56% of global production. By 1980, this decreased to 45% and is expected to decline further.

Throughout the 1980s, however, considerable reliance on Middle East oil will continue. Any substantial interruption in oil supply will have dramatic and major adverse impacts on importing nations, including the United States.

B. Market Structure

A number of structural changes have occurred in the production, refining and distribution of petroleum. The major international oil firms have less control over production rates and first sales of crude than in the early 1970s. These functions are now largely controlled by producing nations. Also, government to government transactions for oil have substantially increased.

However, there continues to be flexibility in the crude market as well as in refining and product distribution once the crude leaves the exporting nations. The degree of flexibility is not known but one has only to observe the 1979 market adjustments that were made to recognize what can be accomplished. Significant amounts of crude and products were and continue to be traded on the spot markets. In sum, while the very flexible arrangements that existed in the early 1970s are now restricted, considerable capacity remains to adjust to rapid changes in oil production levels. This is especially so when ample stocks are available in consuming countries.

TABLE 1

WORLD CRUDE OIL PRODUCTION TRENDS
(million barrels per day)

	1973	1977	1979	1980
World Total	55.8	59.6	62.4	59.5
Communist	10.0	13.1	14.0	14.2
Non-Communist	45.8	46.6	48.4	45.2
- OPEC	31.0	31.2	30.9	26.9
- Non OPEC	14.8	15.4	17.5	18.3
Middle East	21.2	22.2	21.4	18.4

Sources: Department of Energy, "Monthly Energy Review," April 1981
Central Intelligence Agency, "International Energy Statistical Review".

C. Petroleum Supply Interruption Threats

In 1980, 41% of free world oil production came from Middle Eastern States surrounding the Persian Gulf. Nearly all of this 18 million barrels per day of crude oil passes through the Straits of Hormuz. This critical reliance on highly concentrated production and transportation systems poses a substantial threat of a severe supply interruption for some duration.

Since 1973 three relatively small interruptions have occurred. The first in 1973 resulted from a political decision by Arab OPEC nations to reduce oil production and exports to the United States. Their motivation was the Arab-Israeli conflict. A second interruption occurred in 1978/79 as a result of social turmoil in Iran resulting in sharply curtailed production levels and significant price increases. The third was the Iraq-Iran war which began in September 1980. In the first two cases world oil prices rose substantially, certain producing nations increased production, and consuming nations reduced consumption in response to higher prices. The Iraq-Iran war had little effect on the market because oil consumption was already declining, stocks that were at record levels were drawn upon, and other producers again increased production.

Petroleum supply interruptions can result from:

- political decisions by producers to sharply reduce production,
- internal upheavals within producing nations,
- external intervention by outside powers,
- natural disasters.

The likelihood that relatively minor interruptions will occur seems high based on the events of the 1970s. While they could have significant adverse effects, the ability of importing nations to withstand such events by relying on markets, not government allocation, and by assuring that disincentives to private sector stocks are removed is relatively good. The likelihood of more severe interruptions (deeper and/or longer) is low, but the adverse effects would be substantial as discussed in subsequent sections of this report. Importing countries must be adequately prepared for such events.

D. Impacts on IEA Member Countries

For any supply interruption the potential adverse impacts on importing nations are similar:

- higher oil prices,
- loss of wealth to the oil exporting nations,
- temporarily reduced economic activity,
- pressure on financial markets and trade.

Major importing nations such as the U.S., Japan, Germany, Italy and others differ in degree of reliance on imported oil. Shown below, based on 1979 data, are country-by-country data on oil import reliance as a proportion of total energy use.

TABLE 2

IEA OIL IMPORT RELIANCE, 1979

Country	Oil Imports (MB/D)	Total Energy Consumption (MB/D)	Imports as % of Total Energy Consumption
U.S.	8.2	37.1	22%
Germany	2.9	5.6	52%
Japan	5.4	7.7	71%
Italy	2.0	3.0	67%
United Kingdom	0.4	4.6	8%
Canada	0.2	4.7	4%
Other IEA	5.4	10.0	54%
Total	24.5	72.7	34%

The Emergency Sharing System of the Agreement on an Internationa Energy Program (IEP) can be activated for oil supply shortfalls exceeding 7% of IEA's normal consumption. In the absence of activation of the system, the burden of oil supply disruptions would be distributed by market forces and reflected in the world oil price. The IEP sharing system allocates available oil among member countries. This effectively limits each member country's net oil imports. For supply losses of 12% or greater, 10% of the supply loss is distributed in proportion to each member's oil consumption; the remaining supply loss is distributed among IEA members in proportion to their net oil imports during a specified base period. The IEP distribution of oil is therefore increasingly weighted toward a country's import level for severe disruptions.

For supply losses of 12% or greater, each member is obliged under the IEP to reduce oil consumption by 10%. The remaining shortage can be dealt with by any combination of reduced consumption, increased production, increased non-oil imports, or stock drawdown.

Table 3 illustrates the distribution of burden imposed by the IEP sharing system for disruptions ranging from 12% to 40% of IEA base period consumption (3.5 to 14 MB/D). Although changes in base periods affect the calculation, the relative position of the members is more stable.

In a disruption of 20% of IEA oil consumption, the U.S. would lose 7% of total energy consumption while Japan would lose 17% of its total energy consumption. For a very severe disruption (26% of IEA consumption) the U.S. loss rises to 9%, while the Japanese loss would be 24%.

This analysis shows the IEA member countries:

- have differing degrees of vulnerability, reflecting oil import dependency and the nature of specific disruptions, and
- vary as to the level of protection needed to ensure their ability to withstand a severe supply interruption under the terms of the IEP emergency sharing agreement.

The link between the energy vulnerability of IEA members and their political and security vulnerability is direct and inescapable. Oil has proved to be a powerful instrument of political pressure. Vulnerability to such pressure could cause allies to withhold support for U.S. diplomacy. It could also stimulate subtle attempts to curry favor with oil exporting countries, which could weaken cooperation in other policy areas. The IEP oil sharing agreement helps other oil vulnerable nations resist these political pressures.

TABLE 3

RELATED DISTRIBUTION OF IMPORT LOSS UNDER THE IEP SHARING FORMULA

IEA Shortfall Depth	Country	Import Loss as a Fraction of Base Period Oil Imports	Import Loss as a Fraction of Base Period Oil Consumption	Import Loss as a Fraction of Base Period Total Energy Use
4.2 MB/D	USA	28%	11%	5%
(12% Consumption)	West Germany	13%	13%	7%
	Japan	14%	13%	9%
7 MB/D	USA	42%	17%	7%
(20% Consumption)	West Germany	27%	27%	13%
	Japan	27%	27%	17%
9 MB/D	USA	51%	21%	9%
(26% Consumption)	West Germany	37%	37%	18%
	Japan	37%	36%	24%
14 MB/D	USA	75%	31%	13%
(40% Consumption)	West Germany	61%	61%	29%
	Japan	61%	59%	39%

Assumes full compliance with IEP sharing system. Base period data for 1980. The burden is the amount which each member must either forego or make up by stockdraw and increased production or increased non-oil imports.

III. DOMESTIC PREPAREDNESS - SEVERE INTERRUPTIONS

A. Background

The economic losses inflicted by a major disruption in oil supplies are due to three main factors: (1) the increase in oil prices and reduction in oil supplies raise production costs and reduce productive capacity, (2) the U.S. must pay more to foreign producers for oil imports, which reduces national income, and (3) aggregate demand declines because of the economic uncertainty created by the disruption and because of the rapid wealth transfer from consuming nations to foreign producers. These economic losses may also be exacerbated by institutional rigidities in wages and prices and inappropriate government policies.

The resulting losses in output, employment and income and the associated hardships cannot be eliminated either by emergency response plans or by government subsidies for synthetic fuels, solar energy or other substitutes for imported oil. This stems from the fact that oil, whether imported or domestically produced, is a major factor in our economy and any large reduction in supply must ultimately translate into a reduction in output. Moreover, even if substitute fuels are available to some degree, a large, sharp increase in oil prices cannot be assimilated in the short run without substantial economic impacts. Even if oil imports were completely eliminated, major disruptions in world oil markets would be telegraphed to the U.S. economy through increases in domestic oil prices and a loss in exports to Japan, Western Europe and other oil-import-dependent trading partners whose economies would be damaged. Emergency response plans are important and can help in the adjustment process, but the main problem is the limited flexibility of any industrialized economy to adjust to sharp increases in the price of so basic a commodity as oil.

B. Petroleum Stocks

Since the basic problem is the inability of the economy to adjust rapidly without substantial losses, the development of adequate levels of petroleum stocks that can be drawn down in an emergency is one of the most direct and effective solutions to the problem because it reduces the size of the adjustment required. Use of both private and government-owned stocks are effective in reducing shortfalls in petroleum supplies and the associated economic losses and national security threats. U.S. oil stocks are presently at an all-time high level. Combined private and government stocks, as measured by criteria of the International Energy Agency, now total 243 days of imports, considerably more than held by any other major importing country.

The Strategic Petroleum Reserve (SPR) as of July 1, 1981, contained about 160 million barrels, and approximately 40 million barrels are expected to be added by the end of this fiscal year. With 200 million barrels in the SPR and the large volume of private stocks, the U.S. will have very substantial protection against major supply disruptions. The Administration is committed to increasing this protection as rapidly as feasible and will press ahead with capacity development and oil acquisition for the 750 million barrel reserve.

Government policy can also be effective by reducing disincentives to private oil stockpiling and other forms of self-insurance and by reducing institutional barriers to fuel switching, power wheeling and other adjustment mechanisms that can increase the flexibility and resiliency of U.S. productive capacity. Petroleum price controls and allocation, whether actually in place or held in standby status, are the largest and most pervasive disincentive to self-insurance by the private sector. Oil companies, distributors, and end-users will not develop adequate stocks or adequately diversify sources of supply if they expect the government to preempt inventory profits on those stocks by price controls and to ensure the prepared and the unprepared alike a "fair share" of petroleum supplies at a price substantially lower than can be obtained on the spot market.

C. Emergency Response Options

In addition to ensuring that private and SPR stocks are adequate and that barriers to economic adjustment are minimized, an effective strategy must also establish what actions the government will or will not take during a petroleum supply disruption. There are basically two options: the kind of price controls and allocation strategy relied upon during the past eight years and a strategy of basic reliance on the market. 1/ In addition, there are two suboptions which have received considerable attention in conjunction with the market reliance strategy: a fee on oil imports and a mechanism, such as a tax cut and increase in transfer payments and grants to States, to redistribute Federal tax revenues to consumers and the States. These four options are examined below.

1/ Basic reliance on the market does not preclude limited Government involvement in the event of a major disruption. The President has numerous authorities available for appropriate actions in the absence of the Emergency Petroleum Allocation Act. *See* footnote on page 11.

Price Controls and Allocation

Strategy Description. Under this strategy, domestic oil prices are held below market levels and supplies are allocated according to government priorities and preferences by regulation. This strategy attempts to reduce transfers from consumers to domestic oil producers and distributors by holding down oil prices. 1/ Oil products are allocated according to historical use with certain priority activities first in line. The strategy can only prevent or reduce the domestic part of the wealth transfer--foreign oil prices are beyond direct U.S. government control. To prevent domestic producers from receiving any wealth transfer, the government controls real domestic crude oil prices at predisruption levels. Domestic crude oil price controls are not sufficient to prohibit refiners and distributors from pricing their products high enough to clear the market. To avoid this, refiners and downstream distributors must be prohibited from charging more than a government-dictated mark-up over average crude oil costs.

However, since all refiners do not have the same access to price-controlled "low cost" domestic oil, further regulations are needed to avoid the politically untenable situation of some consumers having to pay greatly higher prices for gasoline and other products than other consumers. The remedy used in the past was a system of cash payments among refiners, whereby those refiners with greater than average access to price-controlled oil paid more import-dependent refiners an amount calculated to approximately equalize average refiner acquisition cost. In effect, this system, known as the entitlements system, taxed the use of domestic oil and subsidized the importation of foreign oil.

During normal times, suppliers generally allocate petroleum to those purchasers willing to pay the highest price. Price controls limit the price that can be legally charged, thus other allocation procedures must be found. Allocation procedures may also be necessary because incentives for anti-competitive practices may exist. With the selling price determined by average cost and with margins frozen, integrated refiners could have an incentive to supply their

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1/ The National Petroleum Council (Emergency Preparedness for Interruption of Petroleum Imports, April 1981) has proposed no price controls at the wellhead but controls on refiners' and distributors' margins. This approach, at least in theory, would eliminate most of the wealth transfer to distributors and refiners but allow the entire transfer to producers. Thus domestic oil prices would not be dampened to the same extent as under "full controls," but the effects on allocation efficiency and the need for complex regulation and a large, costly bureaucracy would be about the same.

own retail outlets preferentially during disruptions, at the expense of independent retailers. Independent retailers would demand that the government remedy the situation. The remedy used in the past has been to freeze the relationship between suppliers and purchasers and to require suppliers to allocate supplies based on historical usage. Suppliers were required to sell an equal fraction of base period sales to all their historical non-priority customers.

These regulations tend to insulate existing purchasers from competitive pressures and make it difficult for more efficient refiners and distributors to expand their market shares. The government would presumably again establish a detailed system of priority categories whose members would be entitled to a larger fraction of historical use than other users. In the past this list has included farmers, fishermen, homeowners, parcel delivery, military, newspapers, and many others.

There is one final layer of regulations that would be required to address a problem associated with the first several months of the disruption: gasoline lines. In a major supply disruption, prices will begin to rise very quickly. If price controls are imposed before U.S. and world prices reach levels that would reduce oil demand to the new levels of supply, lines will form at retail gasoline, diesel, and general aviation fuel outlets. This condition would persist until U.S. refiners could identify, bid for, and obtain new crude oil supplies on world markets. To deal with the lines at the retail gasoline outlets, the regulatory strategy calls for imposition of gasoline rationing, or at least an attempt to do so.

Evaluation. Because oil prices would be lower in the domestic market than in the world market, U.S. demand would be higher, encouraging imports and adding some upward pressure on world oil prices. The somewhat higher world prices would increase the size of the economic rents paid to foreign oil producers, that is, foreign producers would be subsidized at the expense of domestic producers. The effects of these higher OPEC rents may offset the effect of lower oil prices in the U.S. economy.

More important, oil supplies would necessarily have to be allocated on the basis of data that is always out of date. Allocation systems cannot accurately reflect recent growth or decline in demand among areas or among firms and individuals, and they cannot anticipate nor accurately adjust for shifts in demand caused by uncertainty about supplies or the differential impacts of higher oil prices. Thus some areas and users are allocated larger supplies than they would have demanded at a competitive price while other areas and users receive less than they would have demanded. In past applications of gasoline allocation, for example, supplies have generally been ample in most rural areas and on interstate highways, but long queues were created in many cities. It is safe to assume that these shortcomings would increase substantially in more major interruptions.

Such misallocations and the price controls seriously impact output and employment. They increase production costs, as shorted producers attempt to substitute more expensive inputs for oil they would have gladly paid a higher price for. Oil is used disproportionately for less valuable uses because higher valued uses are not allowed to compete for more than their "fair share." Productivity and consumer welfare are also damaged by the long lines that form at gas stations because demand exceeds supply at the controlled price and because the gasoline is allocated on the basis of where it was needed a year ago rather than where it is needed now. For a major disruption of 10 MB/D in OPEC supplies (about 2.7 MB/D in U.S. imports) the time spent in gasoline lines is estimated to cost U.S. consumers some $2-3 billion just during the 3-4 months it would take to implement a gasoline rationing plan. The allocation system would also intensify the shortage for the average user because of off-the-top allocations to State set-asides and to various categories of legally privileged users who face no incentive to conserve, a wide-open opportunity to hoard, and an artificially low price to boot. In 1979 certain "priority" users were entitled to 100% of their "current needs," which was defined at whatever they said it was.

In addition to these impacts on producers and consumers, price controls and allocation would require huge bureaucracies at both the Federal and State levels. It is estimated that a system of price controls, allocation and gasoline rationing would cost $2-3 billion per year to administer and would cost the private sector an additional $2-3 billion for compliance activities. The hundreds of pages of complex regulations required would be subject to various interpretations and often legal challenges. Political influence and political expediency would play a major role in the operation of the system. Once established, political constituencies would develop quickly, making it difficult to dismantle the system after the emergency is over, as has been amply demonstrated.

Market Reliance

Strategy Description. This strategy relies on the market to price and allocate petroleum supplies domestically. [1] It is based on the principle that markets which are most efficient and effective in allocating resources during "normal" times will also serve as the best, though perhaps imperfect, allocator during supply disruptions, even severe disruptions. It also recognizes that major supply disruptions not only reduce the supply of petroleum but they also create huge uncertainties and major shifts in demand. Thus it is especially important during major supply disruptions to use every drop of oil as efficiently as possible, to encourage conservation and additional oil production, and to respond quickly to the shifting patterns of demand.

Evaluation. Oil prices in the world market will be somewhat lower under a market strategy compared with price controls because there would be no subsidy provided for imports through an entitlements program. Domestic petroleum prices, however, will be higher under a market strategy. The Department of Energy estimates that world crude prices during a major disruption of 9.4 MB/D would increase from $38/B (1981 first quarter base level) to a peak of $119/B in the very short run, and then perhaps subside somewhat as substitution possibilities become more available. This assumes that the IEP emergency sharing system is in effect. Gasoline and distillate prices could reach peaks of somewhat more than $3.00 per gallon in the U.S. market, approximately $1.00-$1.40 (50-70 percent) higher than under price controls. On the other hand, lines would be eliminated under a market strategy, except possibly for occasional, brief shortages which would be quickly eliminated by supplies responding to the higher prices.

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[1] Authority will be available under the Defense Production Act to allocate oil supplies for national defense purposes should that become necessary during a major disruption. Other authorities also exist that could be used to restrict demand, encourage additional domestic oil production, encourage fuel switching, increase fuel-use efficiency, and encourage private stock drawdown by reducing the tax impact of such action. These authorities include: Sections 106 and 202 of the Energy Policy and Conservation Act (EPCA), Title II of the Emergency Energy Conservation Act of 1979, Sections 202(c) and (d) of the Federal Power Act, Section 404 of the Powerplant and Industrial Fuel Use Act, the waiver authority under Section 110(f) of the Clean Air Act, and Section 473 of the Internal Revenue Code.

The overall rate of inflation during a disruption will be determined to a large extent by monetary policy. The Administration is committed to a policy of steady money growth to reduce inflation. If monetary policy is used in this way to maintain overall price stability in the face of an oil shock, oil prices will grow relatively more rapidly and other prices relatively less rapidly under a market strategy than under controls and allocation, but the overall rate of inflation will be roughly similar under the two strategies. In fact, with monetary policy maintaining a steady growth in nominal income, inflation will be slightly less under the market strategy compared to controls and allocation since output and employment will probably be somewhat higher.

Conservation, fuel switching, and domestic oil production will be maximized as millions of individuals and firms respond to rising oil prices. These decisions can best be made on a decentralized basis at the grass roots level by the millions of consumers and producers who are most knowledgeable about their own circumstances and the alternatives available.

Individual decisions by producers and distributors in response to changing relative prices will also provide the most rapid and effective response to any shortages that may develop in a region due to a disproportionate loss in supplies by refiners that serve the region or if such refiners give up oil under the IEP sharing agreement. While existing contracts between suppliers and their customers may cause some stickiness in the responsiveness of the market, higher prices in one region will quickly bid away crude and product from other regions to balance the burden. These adjustments will be made more rapidly and more efficiently in response to price signals than under price controls and allocation, where adjustments in regional supplies from outdated historical patterns would have to await decisions by government bureaucrats on each case or class of cases, using information that is inevitably incomplete and outmoded in comparison to what is available to the market on a day-to-day basis.

Due to its reliance on a decentralized flexible response, the market strategy will be better able to deal with uncertainty than will a regulatory approach. The length and depth of a disruption will not be known at the outset. Nor will the disruption be of constant, uniform size. This strategy accommodates uncertainty by relying on many decision-makers and the ability to respond quickly. The less concentrated the decisionmaking authorities, the greater the diversity of response, and the less the chance that a central decisionmaker--who at the outset of past emergencies has consistently overestimated the severity of oil supply disruptions--will cause widespread damage by decisions that later prove to be wrong or substantially off the mark.

A decentralized response strategy that relies on prices also provides strong signals for the private sector to prepare for disruptions in advance and to take actions during the disruption that reduce the damage. Refiners, distributors, and end-users--from farmers to rent-a-car firms--would have greater incentives to build oil stockpiles, if they knew that prices will be allowed to rise and the government will not allocate supplies during disruptions. Opportunities for legitimate, socially-beneficial gain provide these incentives. Similarly, utilities and industrial oil users would in many cases find it in their self-interest to install multi-fuel capacity for use during periods of high oil costs.

Import Fee

Strategy Description. A fee on imported oil has been proposed by a number of people as a means to reduce payments to OPEC and the adverse effects on the U.S. economy. Authority exists under Section 232 (b) of the Trade Expansion Act to impose such a fee during major disruptions in oil supplies.

As oil prices rise during supply disruptions, the United States and other oil importing nations will pay higher prices for fewer barrels of oil. If the United States, perhaps in concert with its oil-importing allies, can slow the rise of oil prices and can reduce their ultimate level by an import fee, a portion of this wealth loss may be avoided. This assumes that a fee on imports, by reducing demand for imports, will reduce world oil prices. Price may not fall if oil producers cut back production by the amount of the demand reduction.

Evaluation. A fee would raise the price of both imported and domestic oil above world market levels, which may induce some additonal production in the U.S. and further reduce demand. If a fee prevents world oil prices from rising as high as they would have otherwise, the United States (and all other oil-importing nations) would pay less for oil imports, even though U.S. consumers would be paying higher prices at the pump, the difference being the fee.

This additional tax on the American consumer would be difficult to explain and support during a period when oil and other prices are already rising rapidly.

The effects on output and employment of an oil import fee are difficult to forecast. The positive effect of reduced payments to OPEC may be offset by the higher domestic prices for oil and the lower quantities of oil imported. There is also the uncertainty about whether some foreign oil producers will cut back production to try to offset the dampening effect of a fee on world oil prices. This is particularly likely if the disruption is the result of a politically motivated embargo.

A fee would be more effective and more beneficial to the U.S. if other importing countries also imposed fees. However, other members of the IEA have shown little enthusiasm for fee strategies, possibly because most European nations already tax motor gasoline heavily. Discussions have centered on levels of imports with the mechanisms for achieving these targets left to each nation's discretion. Even if the IEA members were to agree in principle on a coordinated fee, it would be very difficult to reach agreement on the size of the fee, on the timing and coordination of implementation, and on how the fee would relate to existing agreements on demand restraint and oil sharing under the International Energy Program (IEP).

Emergency Tax Cut and Increase in Transfer Payments

Regardless of which of these emergency response strategies is followed, a major disruption in oil supplies is likely to cause a temporary increase in domestic oil prices. Such disturbances should not be countered with expansionary quick-fix monetary and fiscal policy measures. Instead, the Administration's commitment to growth oriented tax and budget policies, lower inflation and a strong dollar should be renewed and intensified. In particular, the program of monetary restraint should be reaffirmed. Also, emergency tax rate reductions to enhance output in the energy and non-energy sectors should be implemented and financed out of revenue increases generated through higher oil prices. In these circumstances price disturbances and output disturbances will be short-lived and localized. A general acceleration of inflation and prolonged recessions can be avoided.

One approach is an emergency tax reduction and increase in transfer payments which could be implemented during major oil supply disruptions. The tax reduction and increased transfer payments could be handled through the existing income tax and income transfer programs, such as Social Security, Supplemental Security Income, and AFDC. A portion of the funds could also be distributed to the State governors for redistribution to meet special needs in their States. By using these well established systems it is estimated that a tax cut and income transfer approach could be implemented more quickly and at substantially lower cost than a system of price controls, allocation and rationing. This approach has another advantage over price controls in that the latter provide assistance in direct proportion to the volume of oil products used (big users receive a larger subsidy than small users), which not only discourages conservation but may also be questionable on equity grounds.

Preliminary analysis indicates that for an emergency tax reduction and transfer payment system to be successful, it must avoid the kind of detailed targeting proposed by the Carter Administration in its gasoline rationing plan. An overly complicated system that attempts to provide precise equity for every area and category of consumer can neither be implemented quickly at the onset of a disruption nor be administered soundly and fairly.

Consideration has been given to providing preauthorization for an emergency tax reduction and transfer payment system and to require the President to develop a standby system for approval by the Congress. Our preliminary analysis indicates that further analysis and contingency planning on this subject should continue. Questions need to be resolved about the feasibility of designing and enacting standby authority in advance for a system that would be workable and suitable for use during circumstances which cannot be accurately forecasted and which may not occur until some time in the future.

D. Conclusions

The Administration is convinced that the welfare and interests of the American people will be best served if the government follows a policy of making sure that the nation has adequate insurance in advance to ameliorate the effects of major oil suppy disruptions and, in the event of a disruption, of allowing the market to do the job it does best--allocating scarce resources efficiently and effectively among competing demands. For this reason the Administration is opposed to enactment of any petroleum allocation or price control authority, including extension of the Emergency Petroleum Allocation Act. It is essential that we proceed with the development of the SPR as rapidly as feasible and also ensure that the private sector has proper incentives for self-insurance and that institutional barriers to endurance and flexibility in the economy are removed. No other action could have a more salutary effect on the preparedness and endurance capability of producers and consumers alike than to guarantee that domestic price controls and allocation of oil for civilian purposes will never again be imposed.

Adequate levels of private and government stocks and reliance on the market will ensure that the adverse effects of oil supply disruptions are minimized and that the various groups of producers and consumers and different regions of the country will be treated equitably. An import fee has no compelling virtues. It involves government interference in private sector productive decisions and hence could easily introduce undesirable and costly distortions. The possibility of developing a system of emergency tax rate cuts and income transfers should be analyzed further, and questions should be resolved about preauthorization of such a system. Finally, to insure a strong dollar and prevent a new outbreak of general inflation, oil supply disruptions must be greeted with a firm and non-accommodative monetary response.

IV. INTERNATIONAL PREPAREDNESS - SEVERE INTERRUPTIONS

A. Background

In the event of a severe petroleum supply disruption, oil importing nations have several alternatives for response.

- Stockdraw to increase supplies available for consumption during a disruption.
- Surge Production, including increased domestic production of any energy source.
- Increased Imports of non-oil energy supplies.
- Foregone Consumption of petroleum products.

Each of these options involves economic costs.

The major oil importing nations have agreed, in the Agreement on an International Energy Program (IEP), to take certain measures in the event of a major international petroleum disruption to distribute available oil supplies among IEA members. These measures include demand restraint, stock drawdown, and the international sharing of oil.

The IEP sharing system allocates available oil among member countries. This effectively limits each country's net oil imports. A country's imports are effectively limited to its calculated supply right minus its current production.

More specifically, the IEP emergency sharing system may be activated when the IEA group of twenty-one member countries as a whole ("general trigger") or an individual IEA country ("selective trigger") experiences a 7% or greater shortfall of available petroleum supplies, measured against final oil consumption during a specified base period (the previous four quarters, with a one quarter lag).

The IEP provides that in the case of a general trigger, the participating countries will distribute oil supplies available to them on the basis of "supply rights", derived in accordance with a prescribed sharing formula. A country's supply right is equal to its final oil consumption during the base period (the previous four quarters with a one quarter lag), minus a demand restraint obligation (7% of base period consumption if the shortfall is between 7 and 12%, and 10% of consumption, for shortfalls of 12% or greater), and minus a share of the remaining shortfall determined through an emergency stock drawdown calculation, which is based on a country's share of net oil imports in the previous calendar year. To the extent that oil supplies which are destined for an IEA country exceed or fall short of that country's allotted share (supply right), oil supplies are allocated through a system of voluntary offers from participating oil companies to insure that the total of oil production and oil imports received by each country is limited to its supply right. This process differs slightly in the event of a "selective trigger" in that only the affected country is expected to reduce its demand and only by 7% with its residual shortfall made up by other member countries on the basis of their respective oil consumption in the base period.

The IEP emergency sharing system can be activated by the IEA Governing Board when the IEA Secretariat finds that the members have incurred or can reasonably be expected to incur a reduction in available oil supplies exceeding 7% of consumption as compared with the base period. However, the IEA Governing

Board may, by special majority, prevent activation. The special majority to block a general trigger requires an affirmative vote by 15 of 20 members and 60% of the "combined" voting weights (the U.S. holds 31% of the combined voting weights). To block a selective trigger, a vote of 17 of 20 voting members is required. 1/

This emergency system is designed to achieve a specified distribution of oil and reduce spot market oil price pressures by limiting each IEA country to a specified share of available supplies. Thus, during severe disruptions, IEA members will act cooperatively to reduce oil price increases below what would occur without cooperative efforts by importers. Collective action can be effective in dealing with the OPEC cartel while assuring the distribution of available quantities of oil among IEA nations according to an agreed formula.

When an oil supply interruption occurs, a passive strategy will result in lower oil consumption and higher oil prices. The high oil prices will cause enormous losses in GNP. The IEA sharing agreement provides a framework for the U.S. to coordinate its actions with similar actions by all other members of the IEA. Collective responses to a major disruption can significantly reduce the GNP losses of an interruption and the cost to the U.S. of preparing for an interruption.

The Administration is committed to the International Energy Program because the IEP provides the basis for reducing unnecessary conflicts among key consuming countries for dealing effectively with disruptions in cartelized world oil markets and therefore for protecting the interests of the American people. An inherent part of this commitment is the need to assure that the IEP emergency system will function as effectively as possible.

The IEP is a program in evolution. Its members have been forthright in recognizing the work which needs to be done to allow it to improve its effectiveness.

1/ These numbers change slightly if Norway, which has an associate arrangement with the IEA, agrees to participate in sharing prior to such a vote.

B. U.S. Obligations Under the IEP

Participation in the IEP emergency system imposes a number of obligations on the U.S.:

- Maintenance of emergency oil stocks (and/or standby production capacity or fuel switching capacity) sufficient to sustain oil consumption for 90 days with no net imports as defined by IEP.
- Maintenance of the ability to reduce consumption of oil by 10% or, as an alternative, readiness to drawdown oil stocks in excess of the 90-day commitment sufficient to supply up to 10% of normal consumption.
- Participation in the IEP emergency sharing system by both the U.S. Government and U.S. private firms. This has the effect of limiting net oil imports during a disruption.

C. Oil Stocks and Demand Restraint

The U.S. currently has in place the necessary statutory authority and government programs to implement its commitments to the IEP.

Oil Stocks

Oil stocks are the most effective mechanism for mitigating the adverse economic effects of an oil supply disruption. Private U.S. firms have historically held more than the required 90 days of stocks on a gross basis. At present, with the reduced import levels fostered by the 1979-1980 oil price increases, U.S. gross oil stocks stand at 243 days of imports, as displayed in Table 4. The U.S. Government owned SPR, currently holding 27 days, could hold from 107 to 375 days at its 750 million barrel level, depending on actual import levels when fill is completed.

TABLE 4

SUMMARY OF CURRENT AND PLANNED U.S. OIL STOCK POSITION

	July 1, 1981 Position		Planned Position (Late Eighties)	
	(MB)	(Import Days) 1/	(MB)	(Import Days) 1/
Private Stocks 2/	1300	217	1000+	143+ to 500+
SPR Stocks	160	27	750	107 to 375
Total Gross Stocks 2/	1460	243	1750+	250 + to 875+

1/ Assumes net import level of 6 MB/D currently and 2 to 7 MB/D in the late eighties; actual level for January through May 1981 was 5.3 MB/D. DOE estimates 1990 imports at 2 to 7 MB/D (see NEPP). Totals may not add due to rounding.

2/ Includes only primary stocks.

Although virtually the entire content of the SPR is available [illegible] emergency drawdown, the precise usability of private stocks is less certain. A portion of these is physically unavailable for use, such as that volume necessary to fill pipelines and processing facilities. Additional volumes are working inventories at refineries and distribution terminals. Drawdown of these volumes would impose costs in the form of inefficiencies, distorted distribution systems, and spot shortages. Thus the actual endurance represented by the gross private stock levels is certainly less than the total number of days. One estimate that may be optimistic places the minimum required private stock level to protect working inventories at roughly 700 million barrels (based on 1973 NPC analysis, updated for year-end 1980). Past experience with DOE price and allocation controls in effect has shown fuel specific regional problems when U.S. stock levels fall near the 1 billion barrel level. It is important to note that stocks of a particular product and seasonality are important factors in evaluating minimum acceptable levels. Without price and allocation controls in place the distribution system would be more efficient.

In summary, U.S. stocks are well in excess of our IEP obligation at present, and this excess will expand further as the SPR is filled. When the SPR is completely filled, the U.S. expects to hold more than 3 times its obligation to the IEP.

The actual draw rates for private stocks during a severe disruption will depend on market forces, and is unlikely to be smooth throughout a disruption. These illustrative quantities provide only a very rough indicator of the endurance available. Because of the importance of strategic stocks, the U. S. Government is committed to seeking improved stockpile policies for IEA members so as to extend their endurance in the event of a severe disruption.

Demand Restraint

The demand restraint obligation in the IEP requires a 10% reduction in consumption in the face of a 12% reduction in supplies (7% in a 7% disruption) or, as an alternative, the use of stocks in excess of the 90 import-day requirement to support the specified share of consumption. Market price effects may operate to reach this level of reduction in consumption, the speed of such adjustment varying with the circumstances. Table 5 displays the price increases which would yield a 10% reduction in consumption for various assumptions about short term demand elasticity.

TABLE 5

PRODUCT PRICE INCREASES WHICH YIELD 10% DEMAND REDUCTION FOR VARIOUS CONSTANT DEMAND ELASTICITIES

Assumed Demand Elasticity	Necessary Price Increase to Yield 10% Demand Reduction
-0.50	23%
-0.20	69%
-0.15	102%
-0.10	187%

The economic losses associated with this adjustment can be minimized by relying on the efficiency of the market adjustment mechanisms.

It is entirely possible for the U.S. to meet its demand reduction requirement even if its oil demand is less elastic than other importers. For example, in a 12% IEA supply loss, the U.S. may be able to meet its demand restraint requirement with an aggregate U.S. demand elasticity 82% of IEA demand elasticity.

DOE estimates of market balances during severe disruptions support the possibility that a price adequate to balance global oil markets will yield 10% or greater U.S. consumption reduction, the speed of such adjustment varying with the circumstances.

If demand restraint is not achieved by market price effects, the U.S. has adequate authority, discussed below, to impose import quotas or fees as necessary to reduce consumption. This might occur, for example, if the IEP sharing system substantially depressed market prices or if U.S. firms sought to build up stocks.

Finally, under Article 16 of the IEP, the substantial excess of U.S. stocks over the 90-day IEP requirement could be used to support consumption in excess of the 90% level.

D. U.S. Participation in the Emergency Sharing System

The IEP provides that when the emergency sharing system is activated, the allocation of oil shall take place as necessary among the member countries. Those countries with actual or projected supplies in excess of their supply rights are to allocate oil to those member countries whose supplies are less than their supply rights.

The emergency sharing system has been designed to achieve this allocation primarily through voluntary oil company actions. Facilitated by the antitrust defense afforded by Section 252 of the EPCA, U.S. companies are expected to make voluntary offers to supply to other IEA countries any oil which the U.S. is obligated to furnish.

The possibility of mandatory government intervention, in the event the voluntary system fails, provides a considerable incentive for U.S. companies to make the sharing system work. Voluntary international oil movements are to be preferred because they are less intrusive, maximize reliance on the market, and avoid having government direct the movement of cargo volumes. They also take advantage of the oil industry's expertise, and its ability to shuffle oil movements smoothly among destinations at the least cost.

The President, if he deems it necessary, may take any one or a number of different actions to foster voluntary compliance or to require mandatory compliance. Some of these include:

- Distribution of oil from the SPR to firms voluntarily diverting oil to IEA member nations.
- Limited domestic allocation of crude oil to such firms as necessary to achieve compliance with IEP obligations.
- Appropriate adjustments for such firms if imports are limited by an oil import quota or fee.
- Mandatory international allocation orders to U.S. firms as necessary to achieve compliance with IEP obligations.

Moreover, because the volume of oil to be allocated from the U.S. to other IEA member nations generally depends on the volume of projected net imports that would result in the U.S. exceeding its supply right, the President could, if he deemed it necessary, take any one or a number of different actions to reduce U.S. oil imports. Some of these include:

- SPR drawdown to depress U.S. import demand.
- Import fees or quotas to reduce U.S. imports.

The Department of Justice has reviewed the available statutory authorities (including the Energy Policy and Conservation Act, the Trade Expansion Act, the Defense Production Act, and the International Emergency Economic Powers Act) and concluded that they are adequate for all of these actions.

The policy of the Administration is to rely on market mechanisms and the voluntary system of allocation under the IEP. The authorities referred to would only be used if the President determines that some government action is needed to foster voluntary compliance by companies in the IEA sharing system or to require mandatory compliance. Such a determination would involve evaluation of the costs and benefits of each option.

The use of the quota authority would yield a limitation on oil supplies in domestic markets and a consequent increase in domestic oil prices over the already elevated level induced by the disruption itself. The result would be an increase in the domestic economic costs of the oil disruption, to the benefit of other oil importers for whom prices would fall reflecting the reduction in effective U.S. demand. Thus the quota action would be designed to preserve the benefits of the IEP allocation system associated with demand reduction, resulting world oil price reduction, and reduced wealth transfers to exporters.

The application of an import fee would yield similar, but more uncertain, results. There would be substantial difficulties associated with determining the appropriate size of such a fee to achieve the precise oil import ceiling specified in the IEP. This difficulty, severe enough in normal markets, would be exacerbated by the complexities of a severely disrupted market. However, the availability of EPCA Section 251 authorities for international allocation orders would enable the U.S. to meet its obligations if the fee were set too low.

The President has the authority to use oil from the SPR to compensate domestic oil companies for oil offered under the IEA system or to generally dampen demand for imports.

DOE plans to develop a contingency plan for a limited crude oil "fair-sharing" system to backstop voluntary offers, for activation should the President deem it necessary to meet our IEP obligations. The aim of this system will be to assure U.S. oil companies that the burden of supplying oil to the IEA sharing system will be shared equitably, if necessary through government ordered transfers of crude oil among them. It is the opinion of the Department of Justice that the President has authority to implement such a fair-sharing system under EPCA Section 251. In our planning for a fair-sharing system, we will be focusing on a very narrow system in order to minimize adverse effects on market decision-making and efficiency.

The decision on whether and when to exercise limited domestic crude oil allocation authority will be made by the President in light of circumstances during the disruptions. However, in considering alternatives the President will also consider the costs which such a system would impose.

Reliance on the market is the most effective approach not only to ensure the most efficient use of available petroleum supplies but also to achieve equitable treatment of the various sectors of the economy and regions of the country. This is true regardless of whether the IEP sharing formula is triggered or not, since there is nothing in the sharing arrangement which would tend to make the regional impact within the U.S. more equitable or less equitable.

E. Adequacy of IEA Stock Policies

The stock position and stock policies of IEA members vary widely. The least import dependent nations (e.g., the United Kingdom, Canada, and the U.S.) hold very high stocks in comparison to their imports. These nations are prepared to support their economies for extended periods at drawdown rates which would compensate for a large fraction of their oil loss.

Table 6 compares the stock positions of the U.S. and the other major IEA importers, but only part of the stocks shown are in fact usable. Together, the U.S., the FRG, Japan and Italy account for more than 75% of total IEA imports. As can be seen, the U.S. is in a better position to deal with a severe interruption than more heavily import dependent nations.

Because of the importance of strategic stocks, the Administration is committed to seeking improved stockpile policies for IEA members so as to extend their endurance in the event of a severe disruption.

Each IEA member is responsible for financing its 90 import-day stockpile. Approaches to financing vary widely among the members, reflecting their capabilities, the nature and history of government-industry relations, the nature of each member's oil market, stockpile costs, and the extent to which each member chooses to exceed the 90 import-day minimum requirement. A wide array of financing approaches have been adopted usually in combination, including the imposition of minimum stockholding requirements on refiners and marketers, joint government-industry financing, stockpile subsidies, and outright government stockpiling. Joint stockpile financing policies would eliminate the flexibility which each nation requires to deal with its own set of conditions. It is very unlikely that joint financing could be agreed to or would effectively improve the strategic protection afforded by oil stocks, and it might even cause deferral of national decisions to increase protection levels.

TABLE 6

IEA STOCK LEVELS

	Stock Levels April 1981 (MB)	Actual 1980 Imports	Stock Levels (Import Days at 1980 Rates)
USA	1460 1/	6.3	232
FRG	361	2.6	137
Japan	442	4.9	90
Italy	163	2.0	84
Other	880	4.6	190
Total IEA	3306	20.4	162
IEA without U.S.	1846	14.1	131

1/ Includes 160 MB SPR; import data excludes territories.

A priority for the IEA should be to ensure that member countries increase strategic reserves. Some other areas of policy coordination are probably less feasible, and in some cases they are undesirable. For example, it does not appear likely that the IEA could agree on a coordinated import fee that would be acceptable to all members because national conditions vary so dramatically. Moreover, it is not clear that an import tariff would work or that on balance it would be beneficial to the importing country.

V. INTERNATIONAL PREPAREDNESS-SMALL INTERRUPTIONS

As described in Section II of this report, there is a real risk of interrupted oil markets over the next decade. Their frequency and duration will depend on numerous political and economic developments, most of which are beyond the control of IEA members. Proposals for coordinated IEA government action to attempt to moderate oil price increases in such markets are under consideration within the IEA.

The United States has concluded that reliance on market pricing is the most effective mechanism for achieving the flexibility necessary to deal with uncertainty but will continue consultations with IEA members on ways of fostering international cooperation in dealing with small interruptions.

Table 7 displays the contraction in oil consumption induced by higher oil prices in 1978-1980.

TABLE 7

WORLD OIL MARKET 1978-1980

	1978	1979	1980
World Oil Production (MB/D)	60.2	62.4	59.5
- of which OPEC	29.8	30.9	26.9
World Oil Price ($/B) (Year-end FOB)	$13.05	$29.35	$36.69
IEA Oil Consumption (MB/D)	39.0	39.2	36.1
U.S. Oil Consumption 1/	18.8	18.5	17.0

1/ Excluding territories.

During this period nominal oil prices nearly tripled--a shock roughly equal to the 1973 shock. With few exceptions, the IEA governments allowed the pass through of higher world oil prices in their domestic markets. The U.S. dismantled its price control program January 1981, when President Reagan eliminated the last vestiges of the system which had been in place since 1974.

The result of rising prices was a contraction of 3 MB/D in IEA oil consumption (62% of which was by the U.S.). This contraction in consumption allowed a significant build-up of oil stocks in spite of the 1980 loss in oil production. This combination of market responses proved adequate to prevent the outbreak of the Iran/Iraq war from driving oil prices much higher; actual prices paid for oil subsequently fell over the first half of 1981.

The oil importers are generally somewhat less vulnerable to oil price shocks in the future because of lower oil dependence, and more confident of their ability to adjust to further shocks.

TABLE 8

IMPROVEMENT IN U.S. OIL REQUIREMENTS

	1973	1978	1980
U.S. Oil Consumption (MB/D)	17.3	18.8	17.0
U.S. Real GNP (Billions CY 80 dollars)	2107	2413	2486
Ratio of GNP to Oil Consumption (Index: 1973 = 100)	1.00	1.05	1.20

Table 8 displays the improvement in U.S. oil reliance between 1978 and 1980. Through July 10, 1981, U.S. oil consumption is running about 1.3 MB/D below the comparable 1980 period, while economic growth is estimated at approximately 2.4% (real) over the comparable 1980 period. In addition, private oil stocks remain at record high levels.

Had oil consuming countries relied more heavily on price controls or mandated stockdraws in response to the 1979 price increases, they might have been less well prepared for the consequences of the Iran/Iraq war. This experience illustrates the value of market pricing in dealing with the uncertainty which we expect will characterize oil markets for the foreseeable future. There are unavoidable economic costs associated with the adjustment to sudden contractions in oil supplies. The market mechanism is able to achieve the necessary adjustment more efficiently than government intervention.

The IEA has considered various proposals for influencing oil market prices in tight market conditions when the sharing system is not activated. The measures under consideration include: data systems to permit continuous monitoring of the oil market; encouragement of national measures to promote demand restraint, high indigenous energy production and fuel switching; hortatory discouragement of resort to the spot market; stock policy guidance; measures to deal with country supply imbalances; increased emergency oil stock requirements; and improved government-industry relations.

In IEA deliberations on this subject, the United States has strongly emphasized the Administration's belief that high levels of oil reserve stocks and reliance on market forces provide the most effective protection against smaller as well as large disruptions. The U.S. is exploring with other countries what minimum oil stock requirements are desirable. It is not appropriate to develop a system that would commit the United States in advance to a specific course of action in responding to small oil supply interruptions. Rather, should a need arise for cooperative action by IEA nations, measures can be formulated at that time to meet specific needs. Consequently, no antitrust defense for subtrigger oil company actions is being sought.

For these reasons, the Administration supports reliance on the market. The Administration continues to support close consultation with IEA members and would not rule out future actions in the event of an interruption depending on circumstances.

VI. ANTITRUST DEFENSE

Section 252 of the Energy Policy and Conservation Act provides a defense against litigation under Federal or State antitrust law for actions taken by private firms to develop or carry out voluntary agreements or plans of action to implement the allocation and information provisions of the International Energy Program. This protection covers certain pre-emergency activities as well as actions taken when the emergency sharing system is activated by a supply shortfall of 7% or more.

Twenty-one U.S. oil companies having international business dealings voluntarily cooperate in the IEA's activities as "Reporting Companies." Without the EPCA antitrust defense, it would be difficult, if not impossible, for the firms to cooperate with the U. S. Government to fulfill our obligations under the IEP.

The EPCA antitrust defense is available only for activities of oil companies which are necessary "to develop or carry out voluntary agreements or plans of action to implement the allocation and information provisions of the International Energy Program." The existing "Voluntary Agreement and Plan of Action," adopted in March 1976, prescribes the method of holding meetings of the industry participants and the requirements for their activities during an emergency. It sets forth several antitrust safeguards that must be observed, such as the monitoring of industry meetings by U.S. Government observers and recordkeeping of those sessions. As contemplated by the Voluntary Agreement, antitrust "approval" or "clearance" letters periodically are issued by the Secretary of Energy to extend the antitrust defense to specific company data submissions to the IEA, or consultation with the IEA Secretariat, under conditions and for limited periods of time specified in such letters. These letters may be issued only after the

Secretary of Energy consults with the Secretary of State, and only with the concurrence of the Attorney General after the Attorney General has consulted with the Federal Trade Commission.

The EPCA Section 252 antitrust defense has proven itself a valuable and necessary measure to allow U.S. participation in the IEP. The Administration therefore seeks its extension to June 30, 1985. The Administration is considering whether some amendment to Section 252 might be desirable, primarily to streamline its implementation.

Energy Emergency Preparedness

General

Question 2: Was this approach approved by the Cabinet Council? If so, when? If not, will it be submitted to the Cabinet Council?

Answer: Although we have not sought formal approval from the Cabinet Council, Members are informed about and supportive of our approach to energy emergency preparedness.

Question 3: Would you please supply copies of relevant background documents?

Answer: In addition to the two documents attached to Question 1, the following material is provided:

- Letter, Vaughan to Representative Broyhill, dated March 23, 1982, with attached DOE report, "Preliminary Analysis of Federal Energy Emergency Preparedness Strategies: The EPAA Experience and Current Programs at the Department of Energy," March 23, 1982.
- Statement of W. Kenneth Davis, Deputy Secretary of Energy, before the Subcommittee on Fossil and Synthetic Fuels, Committee on Energy and Commerce, House of Representatives, July 28, 1981.
- DOE Comments on GAO Report, "The United States Remains Unprepared for Oil Import Disruptions," EMD-81-117, February 2, 1981.

Department of Energy
Washington, D.C. 20585

MAR 23 1982

Honorable James T. Broyhill
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

Dear Mr. Broyhill:

I appreciated your letter of March 16, 1982, and your thoughts concerning the need for effective energy emergency preparedness which avoids the mistakes of the past. As you know, I am also of the opinion that the Standby Petroleum Allocation Act of 1982 is unnecessary.

In response to your request for an analysis of what energy emergency programs the United States should avoid, and which it should pursue, I am enclosing a short memorandum prepared by my staff on this subject. While it is a preliminary analysis, and much more could be described with respect to a number of topics, I thought you would want to see the document as as soon as possible so that you would know more about the energy contingency planning efforts which we now have underway. Naturally, should you or your staff desire further information or elaboration on any of the items, we would be delighted to furnish that to you.

Secretary Edwards and I share your concern that America be prepared to respond appropriately to energy shortage situations. Working cooperatively with members of Congress, other Federal agencies, state and local governments, and the general public, we at the Department of Energy are confident that we will be able to develop programs which will keep America prepared.

Kind personal regards.

Sincerely,

William A. Vaughan

William A. Vaughan
Assistant Secretary
Environmental Protection, Safety,
and Emergency Preparedness

Enclosure

cc: Honorable John D. Dingell
Chairman, Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

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U.S. House of Representatives
Committee on Energy and Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

March 16, 1982

Honorable William Vaughan
Assistant Secretary of Energy
for Environmental Protection,
Safety and Emergency Preparedness
The Department of Energy
Washington, D.C. 20585

Dear Mr. Vaughan:

As you well know, the Congress has recently passed the bill, S. 1503, the Standby Petroleum Allocation Act of 1982. I have consistently opposed this bill as it would revive the price and allocation programs which twice turned relatively minor oil disruptions into disasters. The last "emergency" lasted eight years. Because I want to assure we avoid the mistakes of the past, I have recommended to the President that he veto the SPAA.

But I am concerned that we must be prepared as a Nation should another international incident provoke a disruption in our imported oil supplies. Naturally, I am relieved by the reduction in our dependence upon oil imports. The President deserves considerable credit -- for when he decontrolled oil and dismantled the allocation rules, he spurred a great surge in oil production and in conservation. As a result of his energy policy, the Nation is now importing 20 percent less than when he took office.

Since Emergency Preparedness is your area of expertise, I would request that you prepare an analysis of what emergency programs we should pursue -- and which we should avoid. I would hope that the analysis you prepare pursuant to this request be made available so that the Congress and the public may have a better understanding that we will be prepared if the unfortunate occurs.

Whatever the President decides with regard to the SPAA, your analysis will be of great assistance to me.

Thank you for your assistance in advance.

Sincerely,

Jim Broyhill

James T. Broyhill
Ranking Minority Member
Committee on Energy and Commerce

PRELIMINARY ANALYSIS OF FEDERAL ENERGY EMERGENCY PREPAREDNESS STRATEGIES: THE EPAA EXPERIENCE AND CURRENT PROGRAMS AT THE DEPARTMENT OF ENERGY

Prepared by the:
Office of Energy Emergencies
Office of the Assistant Secretary for
Environmental Protection, Safety, and
Emergency Preparedness
United States Department of Energy

March 23, 1982

I. INTRODUCTION AND EXECUTIVE SUMMARY

With the recent Congressional action on the Standby Petroleum Allocation Act of 1982 (S. 1503) (SPAA), and the resulting debate over whether President Reagan should sign or veto this bill,[*] much interest has been focused on the question of how the United States should prepare itself to respond to any potential energy emergencies, particularly oil supply disruptions. The Department of Energy's Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, which has the responsibility for developing the strategies and programs to address possible energy shortage situations, has carefully reviewed all of the arguments and proposals presented with respect to the SPAA. Based upon this review, the Department of Energy does not believe that the authorities provided by the SPAA are necessary to deal effectively with energy emergencies; indeed, as will be discussed in this memorandum, the SPAA would actually impair development of effective energy emergency preparedness programs, as well as create other administrative and regulatory problems.

Over the past decade, the United States has attempted to respond to energy emergencies with regulations, forms and bureaucracies. This approach, as most commentators now agree, did not work. By contrast, the Department of Energy is now developing a number of contingency planning programs and policies which are designed to facilitate market

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*/ While dated March 23, 1982, this paper was substantially prepared just prior to President Reagan's veto of the SPAA.

responses and adjustments to oil supply disruptions. We are seeking to anticipate potential problems long before they occur, and to work cooperatively with all segments of our economy to prepare for and to avoid such difficulties.

In summary, additional legislative authority, such as the SPAA, is not needed for the following reasons:

A. The Nation's past experience with the Emergency Petroleum Allocation Act of 1973 (EPAA) demonstrates that price and allocation controls are the wrong way to deal with energy emergencies.

B. The Federal Government already has adequate authority to deal with energy emergencies, and is developing a number of programs to avoid or respond to such situations should they occur.

C. New legislation, such as the SPAA, would require adoption of new regulatory programs, data collection and increased bureaucracy to satisfy its requirements.

D. New legislation, such as the SPAA, would be a disincentive to the private sector to take those self-help steps which are essential to achieve energy emergency preparedness.

II. PROGRAMS TO AVOID: LESSONS FROM THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

A. Summary of the EPAA and the EPAA Regulatory Program

Federal authority to set prices for and to allocate petroleum products during the 1970's began as part of the broad, discretionary price authority established by the Economic Stabilization Act of 1970. Starting in the summer of 1971, controls were placed on most wages and prices. This program went through several "phases." Various factors, including the market distortions created by the wage-price control program, led to spot oil product shortages starting in the summer, 1972.

The Emergency Petroleum Allocation Act was enacted in response to the October 1973 Arab oil embargo. Under the EPAA, the President was directed to adopt a "temporary" program of price and allocation controls over crude oil, residual fuel oil and refined petroleum products, in order to "minimize" the adverse effects of shortages of these products. The EPAA also required that price and allocation controls were to accomplish, to the maximum extent possible, nine general objectives (which were, to some extent, mutually exclusive), including: protection of public health, safety and welfare; maintenance of public services and agricultural operations; preservation of the competitive viability of small refiners and independent petroleum marketers, and the minimization of economic distortion and unnecessary interference with market mechanisms.

The President's oil price and allocation authority under the EPAA was originally due to expire on February 28, 1975. However, this authority was extended by Congress on four separate occasions. The EPAA was finally permitted to expire on September 30, 1981. Thus, the EPAA's "temporary" program of oil price and allocation controls to meet a "temporary" oil emergency remained in effect for nearly eight years.

The price and allocation regulations adopted under the EPAA pervasively controlled nearly all aspects of the petroleum industry and markets. The rules dictated the distribution and price of crude oil and petroleum products at each point in the oil distribution system, from producers down to local gasoline retailers, and even down to many individual oil product consumers. Under the EPAA program, the Department of Energy initially "froze" all supplier/purchaser relationships as of 1973. Suppliers generally could not alter their sales and purchase arrangements without DOE approval. At the refinery level, the EPAA inaugurated a "buy/sell" program, which required large refiners to transfer crude oil to small refiners, and an entitlements program, which each month required refiners who purchased lower-cost domestic crude oil to make payments to refiners who purchased higher-priced foreign crude oil. Price controls not only limited the ceiling prices charged at every level of oil distribution, but also dictated which costs could and could not be included in those prices.

The EPAA was a counterproductive means of minimizing the adverse effect of oil shortages which actually increased United States vulnerability to oil shortages. It mandated a cumbersome and unworkable system of price and allocation controls which stimulated domestic oil consumption while discouraging domestic oil production. From 1973 to 1979 (before crude oil controls began to be phased out) oil drilling and production in the United States steadily declined while oil imports increased. Consequently, the United States became increasingly more dependent on insecure supplies of foreign oil, jeopardizing national security, balance of payments and national well being. The EPAA was also a failure during periods of actual oil shortages. There seems to be no doubt that the price and allocation regulations mandated by the EPAA were a principal cause of the regional gasoline and other fuel shortages experienced during the 1979 Iranian revolution. One DOE report noted:

> The gasoline lines observed in June and July, 1979, are examples of shortages created by a combination of price controls and allocation programs. Shortages occurred in metropolitan areas but not in rural areas since the supply shortfall changed consumption habits and reduced out-of-town travel. Giving farmers and other specified users first priority exacerbated the problem in metropolitan areas. An Analysis of Federal Government Energy Emergency Programs, Energy Policy Study Volume 5 (Energy Information Administration, U.S. Department of Energy, January 1980), p. 30, n. 34).

Other reports coming to similar conclusions include the following:

1. Report of the Department of Justice to the President Concerning the Gasoline Shortage of 1979, July 1, 1980.
2. Staff Report of the Bureau of Economics to the FTC, Petroleum Product Price Regulations: Output, Efficiency, and Competitive Effects (February 1981).
3. Report to the API, The Mandatory Petroleum Price and Allocation Regulations: A History and Analysis (May 1981).
4. Data Resources, Inc., The Economic Effects of Alternative Federal Responses to a Major Oil Shortfall, A Report of the Technical Committee of the Petrochemical Energy Group (June 1981).
5. GAO, Gasoline Allocation: A Chaotic Program in Need of Overhaul (April 23, 1980).
6. DOE, Report to the President on the Activities of Oil Companies Affecting Gasoline Supplies (July 24, 1979).
7. Senate Governmental Affairs Committee Report on DOE Gasoline Allocation Program, Senate Report No. 97-_____ (1981).
8. Cabot Consulting Group, Evaluation of the DOE's Gasoline Allocations Program, Final Report, Contract No. DE-AC01-79-PE-70037 (June 6, 1980).
9. U.S. Department of Transportation, Federal, State and Local Responses to 1979 Fuel Shortages (February 1981).

The EPAA regulations required oil jobbers to distribute oil on the basis of historic, frequently outdated base periods. This meant that areas with declining needs continued to receive their historic requirements of oil while long lines formed at gasoline stations in many urban areas.

The full costs of the EPAA, however, cannot be measured merely in reduced production of petroleum and time spent by motorists in gasoline lines. The "human" and financial cost of the EPAA due to requests for relief by small businesses, gasoline stations and others, whose petitions were ultimately denied or merely lost in the bureaucratic maze established pursuant to the EPAA, cannot be precisely fixed, and is one of the largest costs of this ill-fated program. Thousands of written and oral requests for interpretations, adjustments, assignments and other relief were filed with DOE during the period from 1973 to 1981. Despite diligent efforts by many FEO, FEA, ERA and other DOE employees, decisions were frequently delayed for months or years. Market-based efforts to adjust supplies of oil to meet changing market conditions were thwarted by these regulations. And efforts to obtain clarification of the regulations and their impacts were frequently in vain or received a contradictory response. Later, some of DOE's regulations were overturned by courts because they were ambiguous or because DOE personnel gave conflicting interpretations to the public.

B. The EPAA Program was Massive, Complex and Burdensome

The enactment of the EPAA in November 1973 was a virtual boon for the publishing industry. Very quickly, hundreds of pages of regulations in many loose-leaf volumes were promulgated to control prices and to allocate crude oil and refined petroleum products. In the eight years until the EPAA expired in September 1981, these regulations were amended through rulemaking literally hundreds of times. Almost 200 changes, or more than two amendments a month, were made to one regulation alone--Section 212.83--which regulated the prices refiners could charge for certain products. Refiners, suppliers and consumers were barraged by these constantly changing requirements, making planning and compliance a virtual impossibility.

During the Iranian revolution in 1979, DOE made no less than 27 changes to its motor gasoline and middle distillate allocation regulations, often on an ad hoc basis without benefit of regulatory analysis and prior public comment. In several cases, such as the crucial regulations concerning the base period for purposes of motor gasoline allocation, the regulatory amendments were made effective on issuance, with no advance notice and without the requirement for prior written comment. GAO Report EMD-80-34 (April 23, 1980), page 15.

In addition to the rules which were issued, a host of regulatory interpretations of the regulations were generated by the rules' complexity. The Office of Petroleum Operations was responsible for administering the allocation regulations, from the Washington, D.C., headquarters and from the various regional offices. Each of the numerous regulatory changes caused a multitude of telephone inquiries, averaging as many as 1200 per week during May and June of 1979 in one regional office alone. Similar increases occurred in the numbers of petitions received by the Office of Hearings and Appeals under which parties experiencing special inequities or hardships could apply for relief. During the period from March through September 1979, the OHA received over 15,000 such petitions. Despite extraordinary efforts by many officials, this torrent of regulations and requests for relief produced inevitable delays in resolving the petitions. The General Accounting Office determined in a 1980 study that 90 percent of the OHA headquarters backlog, and 21 percent of the regional office backlog, was over 6 months old.

Needless to say, the costs of this bureaucratic maze to the taxpayer and to those who had to comply with the regulations were immense. The frequency of amendments, and the uncertainty of how they would apply during actual emergencies, made it extremely difficult for refiners, dealers and ordinary consumers to make meaningful plans. DOE's regulations actually penalized those who did attempt to engage in prudent planning. DOE's special use limitation on propane, for example, prohibited companies from acquiring or accepting propane from their suppliers if inventories were above certain levels, whether propane was in short supply or not. Companies were also prohibited from consuming more propane for industrial and other uses than was used during the base period, even from their own supplies. This prevented some companies from fully utilizing propane they had stockpiled for a shortage, and almost certainly discouraged others from building inventories for future shortages. Moreover, the regulations provided little incentive for emergency planning. Refiners, dealers and large wholesale consumers were hesitant to build emergency stockpiles which, under the regulations, could be redirected away from them by DOE during a shortage. On the other hand, "priority" users, many of whom consumed large amounts of petroleum products, had little incentive to make emergency plans or to conserve because they were entitled to their full requirements in a shortage.

C. The EPAA Program Exacerbated Shortages, Dislocations and Dependence on Imported Oil Supplies

The Arab Oil embargo of 1973 reduced available crude oil supplies in the United States by approximately 7 percent, and the 1978-1979 Iranian revolution caused a reduction of crude supplies by about 5 percent or less. Yet the dislocations caused by these disruptions were greatly increased by the workings of the EPAA. The allocation regulations, which distributed products at various levels, favored certain "priority" users by granting them, in many cases, all the petroleum products they requested, while limiting other users to a fraction of the amounts they had used during the prior "base period." The use of such a fixed base period effectively prevented available product from being matched with actual demand at the time of a real shortage. This factor, coupled with the removal from available supplies of volumes for "priority" users and for the state emergency reserves, or "set-asides," led to serious regional shortages. Gasoline was directed to tourist and rural areas, where consumption had declined, and away from urban and other areas of increasing need. The excess supplies in one region could not be shifted to urban areas without a lengthy and costly appeal to DOE for approval. Meanwhile, DOE itself was intervening in the market with numerous orders redirecting oil products throughout the nation.

Thus, the allocation program lead to particularly severe shortages of specific petroleum products. Directions from DOE not to draw down inventories of gasoline during the spring of 1979, (44 Fed. Reg. 11202, 11203, Feb. 28, 1979), and to build up distillate stocks (at the expense of gasoline), (U.S. Department of Energy, Response Plan: Reducing U.S. Impact on the World Oil Market (April 1979), page 6), virtually guaranteed motor gasoline shortages in the Spring and Summer, 1979. Attempts by DOE to adjust the regulations to alleviate these imbalances by continuously revising the base period further confused the situation, as suppliers constantly tried to adjust their customer entitlements to meet the requirements of new customers assigned to them by DOE.

A major cost of these regulatory programs was the time and energy wasted while motorists waited in long gasoline lines. It has been estimated that as much as 144,000 barrels of gasoline per day may have been wasted by cars waiting in line in 1979.

The EPAA-mandated price controls also exacerbated the impact of shortages by holding the cost of gasoline, substantially below free market and world prices even during the actual shortage. Had prices been permitted to respond to demand, appropriate adjustments to consumption would have reduced demand to the level of available supplies. Throughout the period when the EPAA was in effect, artifically low prices for crude oil and refined products reduced the incentive for domestic petroleum production, as well as for conservation by consumers of petroleum products. The regulations discouraged investments in refinery improvements, since any costs saved from such capital expenditures had to be passed through to customers in the form of lower product prices. And the "entitlements" program, which required refiners who used lower-priced domestic crude oil to pay fees to refiners who used higher-priced foreign crude oil, encouraged refiners to buy foreign crude oil by, in effect, subsidizing such purchases. This directly increased the dependence of the United States on imports of foreign crude oil. In addition, the "buy-sell" program, by requiring large refiners to transfer crude oil to small refiners who often had limited gasoline production capability, also reduced available gasoline supplies.

Under the EPAA , the nation's dependence on imported oil increased from over 6.1 million barrels per day in 1974 to over 8.2 million barrels per day in 1978. By contrast, after President Reagan decontrolled petroleum in January, 1981, oil imports and consumption have decreased substantially, while domestic production has risen for the first time in almost a decade, and exploration for new domestic oil has increased to record levels.

As a result, OPEC's grip over the world oil market is steadily weakening, and the price of oil has declined markedly. Oil imports are down to 4.2 million barrels per day, almost 35% below 1981. Oil well completions hit a new record of 37,639 in 1981, a 39.3% increase over the 1980 total. Since the March, 1981 peak, the price of motor gasoline and home heating oil has declined recently, as has the spot market price of crude oil - - to well under $30 a barrel.

The effects of President Reagan's decontrol of oil prices and allocation are already clear: a major reduction in the nation's dependence on foreign oil and increased domestic production. The vigorous operation of the free market unshackled from counterproductive government control in only one year has eased the energy situation in the United States to a degree which provides real hope for United States energy security for the first time in over eight years.

D. The EPAA Imposed Severe Costs and Hardships

Although one of the objectives which the price and allocation regulations was supposed to achieve, according to the EPAA, was the "minimization of economic distortion," the regulations had precisely the opposite effect. Because they distorted normal market mechanisms and forced individuals to seek DOE approval for virtually every transaction (or to face the scrutiny of a subsequent audit), the regulations imposed inequities, hardships and unnecessary costs on many individuals, businesses, and non-profit organizations. In a statement before Congress, one economist estimated that the government's cost of administering the petroleum price, allocation and entitlements regulations alone was about $135 million annually over the life of the program. The direct cost of compliance on the private sector was estimated to be even more staggering -- with annual estimates ranging from $650 million to $2.7 billion. As aptly noted by this economist, "This is an awfully high price to pay for a system that creates shortages for you."

A few specific examples of the hardships created by the EPAA regulations (some of which were described in testimony before Congress on the SPAA)[1] are listed below:

1. A school district requested DOE approval to be assigned a new supplier, because the supplier had persistently defrauded the school district by billing the school district

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[1] Testimony of Roy N. Leidner on behalf of the Industrial Oil Consumers Group before the House Energy and Commerce Committee, Subcommittee on Fossil and Synthetic Fuels, July 28, 1981.

for more fuel than it delivered. The school district's petition noted that the supplier had been convicted of theft. Under the allocation regulations, the school district, however, needed the DOE's permission to obtain a new supplier. What probably seemed to the school district to be an open and shut case became an intense struggle with DOE. Despite the supplier's fraud, DOE initially refused to permit the school district to end its contract with the supplier. It was not until July 1, 1975, nearly four months after the school district had sought DOE permission to terminate the contract, more than a year after the court had made the determination of fraud, and after the school district had undertaken a costly appeal of the DOE's decision, that the DOE finally granted the school district's request.[2/]

2. All motor vehicle manufacturers conduct emissions and fuel economy tests, pursuant to Federal Environmental Protection Agency ("EPA") requirements. In order to standardize conditions under which certain of these tests are conducted, a "certification quality motor gasoline" is used, which is supplied by one oil company to all motor vehicle manufacturers for EPA testing purposes. This special gasoline is not sold at retail.

In 1974 the allocation regulations permitted auto manufacturers to purchase only the amount of certification gasoline which they brought in the 1972 base period, even

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[2/] Eagle Point School District No. 9, 2 FEA Para 83,118 (April 17, 1975), Appeal granted 2 FEA Para 80,622 (July 1, 1975).

though their needs had increased because of new EPA testing requirements. Beginning in February 1974, the supplier of the certification fuel and the automakers tried to obtain from the DOE permission to fill the motor vehicle manufacturers' requirements. Unless the automakers had sufficient certification fuel to complete satisfactorily all EPA tests by August 1, 1974, no 1975 model year vehicles could be shipped after August 1, 1974. This would have meant a shutdown of the entire automotive industry. However, on July 9, 1974, the DOE denied the request of the automakers for additional certification gasoline. Finally, on July 26, 1974, only five days away from shutdown, the DOE reversed its prior decision and permitted the automakers to obtain their needs of the certification fuel.

As a result of changes made by DOE to the base period, in 1979, the automakers again were faced with the same problem. And once again, it took a tremendous amount of time, effort and money to obtain permission from DOE for automakers to buy their required amounts of certification gasoline.

3. A North Carolina textile manufacturer received a letter in early 1979 from DOE requesting its cooperation in reducing industrial use of fuel oil. Wanting to do its part to help the national effort while complying fully with Federal price and allocation controls, the Company on March 27, 1979, submitted an application to ERA for permission

to use propane, which was at that time in abundant supply, to displace fuel oil. At the time the application was filed, propane was selling at approximately 19 cents per gallon.

Despite repeated efforts to obtain a decision, ERA took no action upon the request. Finally, on October 11, 1979, over six and one-half months later, ERA rejected the application on the grounds that "another energy source, which is in good supply, can be used." That other source was fuel oil, which only seven months earlier DOE had been urging industrial companies to conserve. To add to the irony, one day after ERA's letter was written, on October 12, 1979, DOE issued new regulations removing most restrictions on use of propane, to be effective the following January 1, 1980. By this time the price of propane had increased to over 60 center per gallon, making use of propane much less attractive than it had been several months earlier.

4. While propane was under allocation in the mid-1970's, an industrial corporation attempted to purchase its needs for the winters of 1976-7 and 1977-8, which consisted of over 3.0 million gallons for each season. At that time, allocations for propane were determined by a firm's purchases during the April 1972 - March 1973 base period. During this base period the corporation had purchased less than 1.5 million gallons, since the remainder of its needs were filled by previously stored inventory. Each summer pleas were made to DOE for

relief from the 1.5 million gallon base-period restriction. Permission, however, was not granted by DOE until December of each year — to late to be of use for that winter. To meet its needs, the corporation was forced to purchase over 6.0 million gallons of foreign propane, at a much greater cost and with an adverse impact on the U.S. balance of payments during a period when ample supplies of cheaper domestic propane were available.

5. The regulations were so complex and pervasive that they could not be adequately enforced, and abuses were common. For example, DOE issued Special Rule No. 9 in May 1979 which allowed some farmers and other priority users to obtain 100% of their current requirements for diesel fuel and heating oil. According to press reports at the time, some of these individuals reportedly sold the excess diesel fuel and heating to oil dealers on the "black market." Moreover, the supplies diverted to these users inevitably increased the severity of the shortage to others, nearly causing the shutdown in the late spring and summer of 1979 of the Great Lakes shipping fleet, which relied on diesel oil. This would have interrupted shipments of critical raw materials for domestic industry. Truckers who were also dependent on these fuel supplies staged demonstrations protesting this shortage. In another case, a construction firm owner was able to obtain, from the state's "emergency" set-aside reserve, gasoline to fuel his construction vehicles and his three luxury cars. (These incidents were reported in the press: New York Times, p. B-2 (March 2, 1979), Washington Post, p. A-1 (July 26, 1979)).

6. A mining complex in a rural area had expanded its operations in 1979 and needed to increase its allocation of gasoline for the additional vehicles which it was operating. The company purchased gasoline at wholesale. Under the regulations, the only way the company could get the extra gasoline it needed was to buy it from retail outlets. Only three small rural retail outlets were located within 5 miles of the complex. Had the company tried to buy gasoline from these outlets, it would have exhausted the stations' supplies (which were tied to base period levels), leaving nothing for local residents. The company finally obtained permission from DOE to buy additional gasoline at wholesale, but only after a costly appeal process which took nearly a year. The order took so long to be issued that less than two months remained before the end of the one-year period for which relief had been requested.

III. THE SPAA CONTAINS MANY SIMILARITIES TO THE EPAA AND WOULD LIKELY LEAD TO MANY OF THE SAME PROBLEMS

A. The SPAA Authority is Contrary to the Administration's Market-Based Energy Policies

President Reagan, on a number of occasions, has taken the opportunity to state his unequivocal opposition to petroleum price and allocation controls (as well as his general opposition to burdensome Federal regulatory programs). For example, President Reagan's January 1980 Energy Policy Campaign Paper stated:

> I favor elimination ... of Federal energy allocation rules. I favor immediate elimination of all Federal price controls on oil. . . .

Most recently President Reagan spoke positively of the removal of price and allocation controls on oil in the State of the Union message when he said that:

> By deregulating oil we have come closer to achieving energy independence and helped bring down the cost of gasoline and heating fuel.

And the President's position is perhaps best summarized in the recent report entitled Promises--A Progress Report on President Reagan's First Year (January 1982), at page 22:

> **PROGRESS:** The Administration is opposed to energy allocation rules and opposed extension of the Emergency Petroleum Allocation Act. Market prices rather than government management will provide proper allocation in time of emergency. In addition, the Administration will continue to support the accelerated filling of a well-managed Strategic Petroleum Reserve and will encourage industry to accumulate petroleum reserves for their use. This known, predictable, constant policy allows energy consumers to make appropriate plans of their own and not be lulled into false security by a big federal program that won't work as well as the market-place when/if a shortage occurs.

Legislation such as the SPAA would send precisely the wrong signal to the private sector about the Federal Government's energy policies and would serve as a powerful disincentive to encouraging free market preparation for and response to energy emergency situations. An independent refiner, faced with the choice of negotiating an expensive long-term contract for crude oil now, or relying on spot market purchases and counting on a Federal Government bail-out, would be encouraged by the SPAA to take a chance on government regulation in the future. And an industrial plant engineer, wanting to put in alternate fuel facilities, or energy conservation equipment, or additional storage capacity, will find that his chances for getting scarce investment dollars from his management would be seriously harmed by the enactment of the SPAA. Once a company makes the decision to rely on the Federal Government in an emergency, the company becomes transformed into an advocate for use of such government authorities--another voice opposing the free market.

B. There are Many Similarities Between the SPAA and the Old EPAA

There are many problems with the SPAA. Through its requirement for regulations establishing a crude oil sharing program, intricate priorities among users, and Federal approval of State energy programs, this legislation would require the reestablishment of the vast myriad of Federal regulations over oil and an elaborate Federal bureaucracy with significantly larger manpower requirements than currently budgeted and authorized. This flies directly in the face of President Reagan's achievements, announced in the State of the Union Message, regarding the substantial reduction in Federal regulations:

> Together, we have cut the growth of new Federal regulations nearly in half. In 1981 there were 23,000 fewer pages in the Federal Register, which lists new regulations, than there were in 1980.

Some of the SPAA provisions which are particularly similar to those in the old EPAA, are the following:

-- SPAA Section 271 (Findings). This section contains the Congressional findings that national security and the economic well-being of the country require the President to have authority to allocate "petroleum products" during a severe petroleum supply shortage.

This is very similar to EPAA Section 2(a).

-- SPAA Section 272 (Purposes). This section states that its purposes are to give the President "limited" and "temporary" discretionary authority to allocate oil during a petroleum shortage and to minimize the adverse domestic effects of such a shortage. This is very similar to EPAA Section 2(b).

-- SPAA Section 274 (Promulgation of Standby Regulations. The SPAA requires the President to develop standby regulations, to be promulgated within 180 days of enactment of the statute. This section permits the President to include any type of price control authority (including "margin" control authority) in the standby regulation; but only if he makes a finding that such pricing authority is "necessary to ensure effective implementation" of the allocation regulation. The Conference Report expressly states that "this phrase should not be read narrowly," and notes that the phrase could encompass "achieving the purposes of the Act, the purposes of the regulation itself, or the objectives of any of the provisions" of this bill. The President clearly has broad discretion to impose price controls. In addition, the Conference Report makes clear that the SPAA is intended to give the President "maximum flexibility" with regard to oil allocation. The Report expressly states that the SPAA confers on the President authority to "choose to limit allocations to a single category of petroleum product, to certain classes of end-users, or to allocation of crude oil among refiners." Section 274 of the SPAA is very similar to Section 4 of the EPAA.

-- SPAA Section 276 (Priorities). This section incorporates essentially verbatim the priorities of EPAA Section 4(b)(1). The section requires that the standby regulation provide "to the maximum extent practicable" for nine stated objectives, which are inherently contradictory.

-- SPAA Section 277. This section requires the President to include an "optional" crude oil-sharing program in the standby regulation. The purpose of this program--otherwise known as a crude oil "buy/sell" program--is more equitably to distribute crude oil among domestic refiners at equitable prices by enabling refineries whose supplies of crude oil have been disproportionately reduced to purchase oil at an established price from other refineries more favorably situated. A crude oil buy/sell program was implemented while the EPAA was in effect, pursuant to EPAA Section 4.

-- SPAA Section 281. This section provides, as a defense to breach of contract actions, that failure to share or exchange oil was caused solely by compliance with the Federal allocation program. This is similar to EPAA Section 6(c).

-- SPAA Section 284. This section requires the President to collect information on the wholesale and retail pricing, supply and distribution of oil on a state-by-state basis, and it specifically refers to the fact that this data was collected for purposes of implementing the EPAA.

IV. THERE ARE A NUMBER OF CONTINGENCY PLANNING PROGRAMS AND POLICIES WHICH ARE IN PLACE OR UNDER DEVELOPMENT AT DOE WHICH WILL ADEQUATELY AND APPROPRIATELY RESPOND TO ENERGY EMERGENCY SITUATIONS

Beyond question, there is a role for the Federal Government in the area of energy emergency preparedness. But, it is important carefully to define the proper boundaries of Federal activity so that any actions taken at the Federal level are not intrusive and counterproductive, as past programs under EPAA clearly were.

The goal of the Energy Emergency Preparedness Program at DOE is to reduce the Nation's vulnerability to energy supply disruptions, and to mitigate any impacts on the nation should a shortage situation occur. The strategy to achieve these goals is to rely primarily on the market-place to respond to disruptions in energy supplies. Accordingly DOE is examining ways to reduce barriers to short-term adjustments in the market-place. We have abandoned the policy of extensive Federal intervention which has proven to be ineffective in previous supply disruptions, such as oil allocation, price controls, and mandatory demand restraint measures, because, as noted earlier, they created or exacerbated the adverse economic and social impacts.

True preparedness to respond to energy emergencies does not rest in having written "plans" on the shelf. Such documents are rarely if ever useful in a real emergency, because the situations they are designed to cover cannot anticipate all of the possible eventualities. True energy emergency preparedness lies in developing processes for anticipating and responding to a multitude of potential crisis situations. Preparedness is a constantly evolving, constantly changing set of strategies, which are continually adapted to new foreign and domestic circumstances. In short, preparedness is being able to solve real world problems, not just being able to write about how to solve hypothetical ones. That is the difference between being prepared, and just developing plans. And this explains what DOE is now doing.

The Federal Government has a wide range of authority at present to deal with energy emergencies. Sections 202 and 251 of the Energy Policy and Conservation Act of 1975 (P.L. 94-163) authorize the United States to meet its obligations under the International Energy Program, including to restrict the public and private use of energy. The Emergency Energy Conservation Act of 1979 (P.L. 96-102) authorizes restrictions on the end-use of energy. The Defense Production Act of 1950 (P.L. 81-774, 50 U.S.C. App. 2061, et seq.) provides authority to allocate oil supplies for national defense purposes should it become necessary during a major disruption. Executive Order 11490, as amended, assigns emergency preparedness functions to Federal agencies dealing with petroleum, natural gas, solid fuels, and electric power. Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) and the waiver authority under section 110(f) of the Clean Air Act Amendments of 1977 (P.L. 95-95, 42 U.S.C. 7410) encourage fuel switching and increased efficiency in fuel use.

Section 202 of the Federal Power Act (16 U.S.C. 792 et seq.), provides an additional legislative mandate to deal with electricity-related emergencies, such as issuing orders for emergency interconnections and reviewing electricity emergency plans. Section 232(b) of the Trade Expansion Act of 1962 (P.L. 87-794) provides authority to impose fees and quotas on oil imports based upon findings that oil imports threaten national security. Sections 301 to 304 of the Natural Gas Policy Act of 1978 (P.L. 95-621) provide emergency authority related to natural gas supplies during a severe shortage. Section 607 of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) provides authority to prohibit the burning of natural gas by any electric powerplant or major fuel-burning installation. Authority also exists under the International Emergency Economic Power Act of 1978 (P.L. 95-223) to declare a national emergency to deal with any unusual and extraordinary threat to the national security, foreign policy, or economy of the United States.

Section 161 of the Energy Policy and Conservation Act of 1975 (P.L. 94-163) provides for drawdown and distribution of the SPR oil during a severe supply interruption, and a plan for such distribution was allowed by Congress to become effective in 1979. And, during a severe interruption, if there is a need to have NPR surge production the President can ask the Congress for such authority by amending the NPR Act of 1976 (Public Law 94 - 258). DOE can also request State increases in production limits for oil and gas fields.

The following are some of the energy emergency preparedness programs now underway at DOE:

- Adequate levels of oil stocks:

Since the basic problem of a major energy supply disruption is the economy's difficulty in adjusting rapidly, one useful solution is to develop adequate crude oil stocks that can be drawn down in an emergency. Both private and Government-owned stocks are effective in dealing with oil supply disruptions, associated economic losses and national security threats. The Strategic Petroleum Reserve is an important part of this program. This Reserve is about one-third filled, with over 244 million barrels of crude oil--more than double the amount of the Reserve over a year ago. The SPR, when filled to 750 million barrels by 1990, may help deter politically inspired disruptions of U.S. imports as well as be used during a major oil emergency.

In addition to our commitment to the SPR, we want to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives for private stockbuilding. For example, we are working with the electric utility industry to see if higher levels of oil supplies should be permitted by state utility commissions. As noted earlier, the very passage of the SPAA would constitute a major disincentive for private stockpiling. In addition, we are studying the relationship of public stocks to private stocks, in order more fully to understand how and when to encourage private sector stock building activity.

- Developing Essential Information.

To meet statutory requirements or to fulfill our public responsibilities, in emergencies it is essential for the Department to analyze certain information and disseminate it to the public. For this reason we are developing a public information plan which will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs, and which will provide effective communications during a crisis. A task force has been set up at DOE to address this issue, and a review is underway to determine what emergency public information needs would be, based upon past experience, and projections for future problems.

We now have, and are improving a daily Energy Situation Report--an "early warning" system to provide accurate and timely assessments of domestic and international energy markets and conditions. In addition, we are developing a rapid information retrieval and analytical capability utilizing EIA data and expertise. We are undertaking such work with the help of the Energy Information Administration and other relevant DOE offices. Armed with such timely intelligence, the Federal Government, for the first time, will be in a position to help avoid potential shortages, rather than just react to them. This is a major step forward in our preparedness activities, and allows us to anticipate potential problems rather than just reacting to them.

- SPR and NPR Planning.

DOE has in draft form an SPR Distribution Management Plan which identifies logistical, legal, and managerial requirements to distribute and use crude oil from the SPR. This draft is now being revised. We are also evaluating and developing alternate drawdown approaches for SPR use in potential crises. A drawdown plan is in place now, having been submitted to Congress in 1979. (10 C.F.R. Part 220.) This plan permits needed flexibility in distribution of SPR volumes. And we are studying ways the NPR can be used during various possible emergency situations. A procedure for surge NPR production has already been devised.

- International Programs.

DOE is developing contingency plans for a National Emergency Sharing Organization and a mechanism to backstop voluntary offers by United States oil companies should the IEA emergency system be triggered. A standby regulatory procedure was issued by DOE in 1979, and we are evaluating whether it still meets today's needs. (10 C.F.R. Parts 209, 218.) We are also developing plans for United States participation in the IEA's Allocation System Test-4 in the spring of 1983. This test and the preparations for it will permit further planning for DOE's international obligations.

- Supporting Defense Preparedness.

  Several plans to support defense preparedness are under development, including National Oil Board plans to support the U.S. commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization. We are also developing plans to implement the Defense Production Act requirements to ensure energy supplies for national defense needs. We have established interim DPA procedures with the Department of Defense, based upon a draft Memorandum of Understanding, and are now working with DOT, DOC, and Treasury to finalize these procedures. Other programs are reviewing DOE's interagency coordination for various emergency purposes, including responding to requests for Jones Act waivers.

- Coordinating with Other Agencies, States and Localities, and the Private Sector.

  Government cannot and should not attempt to accomplish the emergency preparedness task alone. To obtain needed industry expertise in planning for and during energy emergencies, we are revitalizating the long dormant Executive Manpower Reserves--the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve and the Emergency Solid Fuels Reserve. The first EEPA meeting in over 2 years was held on February 10, 1982, and we have draft handbooks now prepared. The Reserves will provide a role for both energy producers and consumers as well as for State and local governments, financial institutions, and other businesses, on a volunteer basis, without establishing a permanent government bureaucracy. We are also studying the possibility of establishing one or more energy emergency preparedness advisory committees, to help coordinate voluntary public preparations for and responses to energy emergencies. A draft charter and workplan have been prepared.

In addition to these programs, we have responsibility to coordinate our activities with State and local governments as well as with other Federal agencies. To facilitate communication, we maintain the DIALCOM electronic mail system with most States, the Regional Electric Reliability Councils, energy associations and their regional and state affiliates. DOE is also examining ways to improve communications with State and local governments. We have met with several state and local government associations and are setting up a schedule of regular meetings to coordinate State and Federal emergency energy programs.

- Vulnerability Studies.

Because energy is critical to national security and defense needs, our planning also assesses vulnerability to terrorism, sabotage, and accidents of the Strategic Petroleum Reserve, the Naval Petroleum Reserves, the electric utility network, natural gas and petroleum pipelines, and other parts of the energy system. We have a number of specific projects underway in this area, which should be completed in calendar year 1982.

- Planning for Responding to Domestic Energy Emergency Situations.

In addition to the measures and authorities discussed above, DOE (along with other agencies) is studying the economic effects of potential energy supply disruptions, and possible mitigation measures.

We are also identifying and developing plans for removing regulatory, environmental, technical and economic barriers to efficient emergency energy use. We are also examining State regulatory restrictions that could be temporarily lifted to increase oil surge production. Draft strategies were completed last summer, and are now being reviewed to determine how they fit into the DOE's current energy emergency preparedness programs.

We have established an Alert Coordination System for electricity and other fuels, which provides a mechanism for a watch officer to be assigned on a 24-hour basis, and rotated weekly. This person is immediately contacted in the event of an energy problem or emergency, and has an established procedure for contacting the appropriate person(s) in DOE, whatever the hour, to help resolve the problem. This system has already been utilized successfully, most recently to help obtain supplies of aviation gasoline for an aerial search late one evening. And we were able to obtain this result by working cooperatively with potential suppliers, without the need for mandatory regulatory programs.

How will America be prepared to respond appropriately to a possible energy emergency? The answer is "Very Well." DOE now has in place, and is constantly improving, emergency information systems which will provide advance knowledge of possible energy emergency situations, so potential responses can be prepared in advance to head off the problem before it occurs.

Can solutions to energy emergency problems be accomplished without resort to mandatory regulatory programs? The answer is "Yes." There is little that you can do with a mandatory program that you cannot do with a voluntary, cooperative program. But without voluntary cooperation, all of the mandatory programs in the world will be a failure. When it appears that a possible energy emergency is on the horizon, the Department of Energy fully intends to work with the private sector, serving as a catalyst to bring appropriate parties together, cooperatively to work out the problem and to find real-world, practical solutions. The proper role of the Federal Government will be to provide needed information, and to facilitate the operation of the marketplace, with needed regulatory and other waivers or authorities. The various executive reserve programs which are being revitalized, and the other interactive programs with state and local governments will provide a ready mechanism for achieving these results.

What if the emergency becomes so severe that the national security and welfare is endangered, can the Federal Government still respond effectively to deal with such a crisis? Again, the answer is "Yes." As was listed earlier, there are a host of authorities available to the Federal Government to deal with bona fide crises which seriously affect national security or which significantly endangers health or property. But these types of occurrences are, thankfully, the exception. And even in such circumstances, as in most if not all other situations, there may well be no need for Federal Government involvement in an interventionist and mandatory manner. Over 220 million Americans know how to make America work--the role of the Federal Government is to help them do it when such help is truly needed, and to get out of the way when it is not.

STATEMENT

of

W. KENNETH DAVIS
DEPUTY SECRETARY
DEPARTMENT OF ENERGY

Before the

SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS
COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

July 28, 1981

Mr. Chairman and Members of the Subcommittee. I am pleased to appear before you today to discuss the Administration's position on standby oil emergency preparedness authorities after the expiration of the Emergency Petroleum Allocation Act (EPAA).

Last week Secretary Edwards submitted to this Committee a paper on Domestic and International Energy Emergency Preparedness which I would like to submit for the record. The paper provides an analysis of the alternatives available to meet a supply interruption.

For the reasons discussed in that paper and that I will summarize later in my testimony, the Administration opposes the enactment of new emergency price control and allocation legislation and believes reliance on market mechanisms, coupled with adequate public and private stocks and with the other existing emergency authorties, is adequate to deal with a future energy supply emergency.

This does not however mean that this Department or the Administration plan to sit idly by and wait unprepared for the next energy emergency. The Department has begun to review those existing authorities and the actions necessary to initiate such measures as emergency increases in domestic energy production, power-wheeling, and short term fuel switching. As part of this energy emergency contingency planning we will be working with all sectors of the energy producing and consuming industry as well as state and local governments to ensure that in the event of a future energy emergency both the private and public response measures are cooordinated and effective.

The Federal Government's proper role in energy during the years ahead is to establish sound, stable public policies which will encourage individuals and firms in the private sector to produce and use energy resources efficiently. The President's action to end oil price and allocation controls and to dismantle the burdensome regulatory apparatus associated with these controls was a major step in implementing an energy policy focused on market realities. The challenge ahead is to provide a healthy economy and public environment that enables our citizens, businesses, and State and local governments to make rational energy production and consumption decisions -- decisions that reflect the true value, in every sense, of all the Nation's resources.

Past U.S. energy policy relied heavily on Federal intervention, and attempted unsuccessfully to protect U.S. consumers from the reality of higher world oil prices. Domestic price and allocation controls, which were in place on both crude oil and oil products when global prices leaped, led to gasoline lines and supply uncertainties. These exceedingly complex, confusing and inflexible regulations seriously hampered the ability of the marketplace to respond to short-term problems and actually contributed to the supply shortage.

I do not believe that subjecting ourselves again to even the possibility of a burdensome, EPAA-type program is in the national interest.

However, the continued threat of severe supply disruptions dictates that the United States take steps to ensure our Nation's energy security. This can be accomplished by:

- reliance on the market mechanisms
- development of SPR
- continued participation in the International Energy Agreement

Relying on market forces for the development of adequate levels of private petroleum stocks, combined with SPR fill, is the most effective measure available for reducing shortfalls in petroleum supplies and the associated economic losses and national security threats. The existence of government price control and allocation programs discourages petroleum users, refiners, and distributors from building and holding private stocks because:

- they believe these stocks will be allocated away;
- they fear government price controls will prevent them from realizing inventory profits if the price goes up in a shortage; and
- the existence of government relief programs leads them to believe that they need not take care of themselves because the government will do it.

The SPR now contains over 170 million barrels, and approximately an additional 30 million barrels will be added by the end of this fiscal year. With 200 million barrels in the SPR and the large volume of stocks held by private firms the U.S. will have substantial protection against supply disruptions. The Administration is committed to increasing this protection as rapidly as feasible and will press ahead with capacity development and oil acquisition for the 750 million barrel reserve.

With the expiration of the EPAA ample authority will remain to deal with the effects of a major supply interruption. The President now has, and will continue to have, authority to:

-- drawdown SPR oil;

-- assure that national security needs are met by directing petroleum suppliers to furnish fuel for national defense needs;

-- impose quotas or fees on imports of crude oil and petroleum products in order to limit or discourage consumption; and

-- temporarily waive regulatory requirements affecting domestic energy production and use.

An additional critical component of this country's ability to respond to an oil supply interruption is our commitment to the International Energy Program (IEP) and participation in its oil sharing system. There is an international dimension to our problem of oil vulnerability. Damage to other free world economies inevitably affects us too.

This emergency sharing system has been designed to operate primarily through voluntary oil company supply actions. The possiblity of mandatory government intervention, in the event the voluntary system fails, provides a considerable incentive for U.S. companies to make the sharing system work. Voluntary international oil movements are preferred because they are less intrusive, maximize reliance on the market, and avoid having government direct the movement of cargo volumes. They also take advantage of the oil industry's expertise, and its ability to shuffle oil movements smoothly among destinations at the least cost.

The President, if he deems it necessary, may take a number of different actions to foster voluntary company supply actions to meet U.S. IEP obligations, including limited domestic allocation or the sale of oil from the SPR; he also can order the allocation of oil internationally if that proves to be necessary to meet IEP obligations. The Department of Justice has reviewed the available statutory authorities and concluded that they are adequate for these purposes.

The Administration is convinced that the welfare and interests of the American people will be best served if the U.S. Government follows a policy of making sure that the Nation has adequate insurance in advance in the form of petroleum stocks to ameliorate the effects of major oil supply disruptions and, in the event of a disruption, of allowing the market to do the job it does best -- allocating scarce resources efficiently and effectively among competing demands. It is essential that we proceed with the development of the SPR as rapidly as feasible and also ensure that the private sector has full market incentives for self-insurance and that institutional barriers to endurance and flexibility in the economy, such as standby allocation and price control authorities, are removed.

In conclusion, I would like to state that we believe that reliance on the market will ensure that the adverse effects of oil supply disruptions are minimized and that available supplies are used most efficiently and effectively. Therefore the Administration is strongly opposed to enactment of EPAA type authorites to deal with supply interruptions.

Mr. Chairman, that concludes my prepared statement, I will be happy to answer any of your questions.

Department of Energy
Washington, D.C. 20585

DOE COMMENTS ON GAO REPORT
"THE UNITED STATES REMAINS UNPREPARED
FOR OIL IMPORT DISRUPTIONS"
EMD-81-117

General Comments

The General Accounting Office (GAO) report suggests the existence of some serious problems with the Nation's energy emergency preparedness. However, the general thrust of this report as well as a number of the GAO recommendations evinces a fundamental difference between the Administration's energy emergency preparedness policy and GAO's perception of the Federal Government's role in planning for and implementing energy supply disruption response measures.

The Administration's policy places primary reliance on market mechanisms coupled with self-help programs--for example, the development of adequate private and Government petroleum stockpiles--to deal with energy emergency conditions. The Administration is convinced (and past experience demonstrates) that this policy best serves the welfare and interests of the American people. It is based on the principle that markets which are most efficient and effective in allocating resources during "normal" times will also serve as the best allocators during supply disruptions, even severe disruptions.

Due to its reliance on a decentralized flexible response mechanism, this market strategy can accommodate the major shifts in demand which result from reduced petroleum supply. Conservation, fuel switching and domestic oil production will be maximized as millions of individuals and firms, producers and consumers alike, who are most knowledgeable about their own circumstances and available alternatives, respond to rising oil prices. This strategy also accommodates the uncertainties associated with a disruption by relying on many private decision-makers and their ability to respond more dynamically than a centralized, bureaucratic decision-making authority. This lessens the chance of widespread damage to the economy.

This policy also provides motivation for the private sector to prepare for disruptions. Based on the knowledge that prices will be allowed to rise and that the Government will not allocate supplies during a disruption, refiners, distributors and end-users will have the incentive to build oil stockpiles. Self-reliance is further induced by this market-oriented interruption strategy since firms and individuals will not be able to depend on the Government to provide them supplies through allocation. Similarly, utilities and industrial oil users are provided an incentive to install multi-fuel capacity since it would be in their self-interest to use such facilities during a period of high oil costs.

A number of the GAO recommendations concern programs which are inconsistent with the Administration's principal reliance on the market, as discussed in our comments below on specific recommendations. In addition, the report contains a number of factual inaccuracies and fundamental misconceptions concerning the operation of the International Energy Program (IEP). Furthermore, the report implies that U.S. domestic production would be required for international allocation in the event the emergency sharing system were triggered. There is no realistic disruption scenario which would require the United States to share its domestic production, in addition to its imports, in order to meet its international obligations under the IEP.

Following are the Department of Energy's (DOE) comments on the specific GAO recommendations to the Secretary of Energy as contained in Volume I of the report.

GAO Recommendation

"...that the Secretary of Energy:

--ensure the timely completion of an inventory drawdown plan so that the Government can effectively manage drawdown of industry stocks. Design of data systems should not be held up while other DOE data needs are being assessed. Most important is receiving industry-wide input on the draft plan and OMB approval for required data collection systems."

DOE Comment

DOE does not concur with this recommendation. Government intervention in the management of private industry stocks during supply shortages is antithetical to the most fundamental principles of the Administration's energy emergency preparedness policy. It interferes with the workings of the market and, therefore, impairs the ability of market forces to allocate resources efficiently and effectively. Such action also presumes that centralized governmental decision-making is superior to a flexible decentralized response. Finally, and perhaps most importantly from a preparedness perspective, the development of plans to implement such a measure will serve as a disincentive to the creation of private stockpiles. For these reasons the Department believes further work in this area would be counterproductive.

GAO Recommendation

"...that the Secretary of Energy:

--prepare plans to establish a private petroleum reserve to ensure that high levels of industry stocks are available for emergency purposes and to promote building of industry reserves. In this connection, the Secretary should review and analyze the various options to achieve this objective, including--(i) requiring companies to set aside, as present law permits, 3 percent of the previous year's imports or throughput; (ii) providing financial incentives for holding oil stocks above a certain level; and (iii) establishing a quasi-public corporation to build and maintain stocks so as to remove their costs from company books and to assure some Government control and management of them. The Secretary should decide which option(s) will best assure the establishment of the private petroleum reserve and, if necessary, seek legislative authority to carry out such option(s)."

DOE Comment

In accordance with Administration energy policy, the Department does not intend to intervene in the acquisition and consumption of private oil stocks. The Department is presently evaluating, however, a wide range of options concerning the elimination of any disincentives, and possible use of financial incentives to encourage various levels of private stocks.

GAO Recommendation

"...that the Secretary of Energy:

> --improve SPR oil acquisition strategy to provide a greater proportion of secure supplies. With due regard for existing contractual arrangements and SPR storage capacity, the Secretary should obtain, at a minimum, all Federal offshore royalty oil from leases which produce 100 barrels a day or more of royalty oil, and continue to seek to obtain Alaskan royalty oil."

DOE Comment

While DOE agrees that the Strategic Petroleum Reserve's (SPR) forward looking oil acquisition strategy should rely in large proportion on secure supplies, it does not believe, as the GAO recommendation implies, that such supplies necessarily must be domestic. DOE's main interest is assuring continued acquisition of sufficient reserves even in the face of significantly tightening oil markets.

Even substantial reliance upon domestic sources of supply, however, will not necessarily assure this continued ability to acquire oil for the SPR. For example, if an oil trader with which DOE has a contract loses access to its foreign oil supply, that trader may attempt to allocate its continued domestic supply among all of its customers. Accordingly, the SPR could receive less oil from that source without regard to whether the oil specified in the contract was foreign or domestic. It would appear that the best chance of assuring continued supply in a tightening market would be for DOE to deal directly with oil producers whose supply commitments are not dependent on other potentially reduced sources. Arrangements with foreign as well as domestic producers would serve this purpose. An example of an agreement of this type with a foreign producer is DOE's current long-term commercial supply contract with Petroleos Mexicanos (PEMEX), Mexico's state-owned oil company, for delivery of up to 110 million barrels of crude.

In light of these considerations DOE has pursued over the past year a flexible strategy in acquiring oil for the SPR A variety of oil sources and acquisition methods were used; these included: (1) acquisition of foreign and domestic crude--including Alaskan North Slope (ANS) crude--through open market, short-term solicitations; (2) delivery of ANS crude in exchange for Naval Petroleum Reserves (NPR) production; (3) acceptance of foreign crude in exchange for NPR production; (4) the aforementioned acquisition of crude from PEMEX; and (5) direct delivery of NPR crude to the SPR by pipeline. In addition, the Defense Fuel Supply Center has issued on DOE's behalf a competitive solicitation for delivery of up to 100 thousand barrels per day for one year. This strategy has resulted in the acquisition of over 120 MMB during the period October 1, 1980, to November 1, 1981, or an increase in SPR inventories of 130 percent for the period. This flexible acquisition strategy is continually being reviewed and revised to accommodate changes in market conditions and SPR programmatic requirements.

In connnection with the acquisition of ANS and Federal offshore royalty oil, it is questionable whether further purchases or exchanges are desirable. The following points are pertinent in this regard:

-- Due to its unique quality characteristics, ANS crude, to the maximum extent possible, must be segregated from the more common SPR Type I sour crudes. Presently, there is storage for only an additional 12 MMB of ANS crude oil. To acquire additional quantities of ANS crude beyond that amount would necessitate the segregation of caverns at other sites resulting in an adverse effect on their drawdown rate capabilities. As for acquiring royalty ANS crude through an agreement with the State of Alaska, the Department has held several meetings with State officials on the subject. Thus far, due to the State's unique pricing formula for royalty oil sales and other contractual issues, the acquisition of such oil has not seemed an attractive proposition. In particular, other ANS oil has been available to DOE in the competitive market at a lower cost per barrel than if acquired directly from the State. As of September 30, 1981, DOE had acquired for the SPR 25.4 MMB of ANS by normal competitive procurement; this constituted 23.5 percent of SPR fill since the resumption of oil acquisition in September 1980. DOE will continue to assess the feasibility and desirability of increasing ANS crude inventories and the means to acquire it, consistent with economics and other factors.

-- DOE has not precluded the possible future use of Federal royalty oil--specifically from the Gulf of Mexico Outer Continental Shelf (OCS), which is most logistically feasible. However, there are significant administrative and logistic difficulties to be resolved, such as:

negotiations with up to 100 producers, many with multiple leases, and up to 100 small refiners; storage considerations--the OCS crude is primarily low sulfur sweet while the current SPR requirement is for sour; and the effect of disrupting established producer-refiner relationships. These problems make this type of purchase relatively unattractive at this time. Furthermore, because of the various small lease unit quantities involved, exchanges as opposed to direct delivery may be necessary. This would place the SPR in the position of still relying on foreign crude sources utilized by the exchange partners, thus minimizing any possible advantages with regard to obtaining a more secure supply source.

GAO Recommendation

"...that the Secretary of Energy:

--ensure that comprehensive contingency plans clearly specify options considered for SPR use, including rate, amount, and timing of drawdown, and method of oil distribution."

DOE Comment

It is DOE's position that it is neither practicable nor desirable to prepare in advance an SPR implementation plan with specific predetermined triggers and requirements regarding the rate, amount and timing of SPR drawdown and the method of oil distribution. Rather, consistent with the Congressionally approved, presently effective SPR Distribution Plan, any implementation plan should provide maximum flexibility for SPR use in order to deal with all types of disruptions. Further, since the length and depth of a disruption will not likely be known at the outset, nor will a disruption be constant and uniform over time, rigid plans for drawdown and distribution make little sense and, if developed and made public, could impair the effective use of the SPR.

GAO Recommendation

"...that the Secretary of Energy:

> --complete a plan for Elk Hills surge oil production and examine the prospects for surge production on other Federal lands."

DOE Comment

DOE concurs with the recommendation concerning Elk Hills and is working on plans and procedures to achieve surge production if and when it is deemed to be appropriate.

DOE also concurs with the recommendation regarding surge production on other Federal lands. In this regard, DOE is currently reviewing the procedures and regulations for establishing production rates, including temporary emergency production rates, for all Federal leases.

GAO Recommendation

"...that the Secretary of Energy:

> --seek cooperation from governing authorities in States with significant potential for surge oil production, to allow increased production where feasible in the event of a national oil supply emergency and to prepare standby programs for this purpose."

DOE Comment

As it appears appropriate, DOE will seek the cooperation of State regulatory bodies which control or otherwise oversee the production of crude oil in their jurisdictions to develop procedures to allow surge production in the event of an oil supply disruption. The Department will encourage States to act expeditiously in this process and will establish liaison with appropriate State authorities to further that end. This recommendation is in consonance with the Administration's energy emergency response policy of eliminating regulatory barriers which may inhibit increased domestic oil production in response to supply disruptions. On the other hand, the Department does not believe that a mandatory Federal standby surge production program, even if developed in cooperation with States, is necessary or desirable. The Administration's Federalism policy precludes any attempt to dictate to the States specific actions in this area, which are a matter for State discretion.

GAO Recommendation

"...in the event that Congress favors the market approach, that the Congress require the Secretary of the Treasury, with the assistance of the Secretary of Energy:

--to review tax and rebate alternatives for use in oil supply emergencies, and recommend legislation if it is appropriate."

DOE Comment

DOE concurs with the recommendation that it may well be appropriate for the Administration to study the feasibility of rebate mechanisms for use during a severe energy supply disruption, and is, in fact, studying this subject in conjunction with other Federal agencies. Any such analysis would not be done alone; rather, it would be part of a continuing review of the overall economic impact of various energy supply shortage scenarios which the Federal Government examines continually as a part of its fiscal and energy emergency preparedness planning.

GAO Recommendation

"...that the Secretary of Energy:

--prepare, if it proves to be cost-effective, an information system for monitoring State energy use that can be used for demand restraint programs in concert with State Governments.

--expand the current Federal Standby Plan to include a set of measures with potential for achieving substantial oil savings.

--prepare public information materials and programs in advance for use during disruptions to promote demand restraint."

DOE Comment

DOE does not concur with the first and second parts of the recommendation which imply the use of mandatory Federal demand restraint programs. Under the Administration's strategy to deal with energy supply disruptions, mandatory demand restraint programs in a shortage situation will be unnecessary since market forces will serve to allocate petroleum supplies, induce any practical fuel switching and otherwise alter energy consumption practices in the most efficient manner. Thus, the Department sees no benefit from a system to monitor State energy use to support such demand restraint programs, nor the need to expand the current Federal Standby Plan.

DOE generally concurs with the third part of the recommendation. It is DOE's position that the Federal Government should provide leadership in promoting greater public understanding of the need for energy emergency preparedness. This could include information concerning possible alternative energy consumption practices which consumers may wish to adopt in shortage situations. DOE also has an obligation at the time of a supply disruption to communicate effectively to the public information concerning the nature of the disruption. The purpose of providing this information would be to apprise the Nation of the situation and to provide a factual basis for making individual decisions concerning energy consumption patterns. DOE currently is working on public information and education plans to meet these objectives.

GAO Recommendation

"...that the Secretary of Energy:

- --acquire the information needed on end-user multifuel use capabilities and complete in a timely manner on-going studies of gas transportation and emergency oil and gas production.
- --evaluate the constraints to fuel switching, and identify options to deal with the constraints so as to effectively implement an emergency fuel switching program.
- --design appropriate information systems to effectively monitor supply availability, transport capacity, and end-user switching capability."

DOE Comment

DOE will continue to work with the private sector and with the States in the examination of emergency fuel switching capabilities and in the identification and alleviation of legal and logistical impediments to such switching capabilities. However, DOE will not pursue the development of new data systems which are predicated on the need for a high degree of Government involvement to accomplish fuel switching in emergencies. DOE will rely upon existing data systems and upon the industry and States to provide essential information with regard to supply availability, transport capacity and end-user switching capability.

GAO Recommendation

"...that the Secretary of Energy and the Secretary of State:

> --seek IEA members' agreement to maintain 90 days of true emergency reserves and evaluate the desirability of amending the present requirements to 120 days."

DOE Comment

The Administration believes that high stockpiles coupled with primary reliance on the market are the most effective insurance against oil supply disruptions. In June 1981, for example, Secretary Edwards urged IEA member countries to parallel U.S. action in building up oil stocks and noted the importance of private companies maintaining an abundant stock cushion.

There is considerable debate over what constitutes true emergency reserves, and the present IEA definition reflects the outcome of compromises over a number of issues. Raising the minimum reserve requirement, however, would accomplish the primary goal of increasing reserves overall. Accordingly, DOE agrees with GAO's recommendation that the 90 day emergency reserves requirement should be increased. As an alternative route to the same end, the United States also strongly supported a recent proposal by the IEA Secretariat that the emergency reserve commitment be established based on the year of highest net oil imports after 1977, rather than the previous calendar year--a proposal that would have had the effect of increasing IEA required stocks by about one-third. Unfortunately, this proposal was not accepted by our IEA partners.

Virtually all IEA countries are in compliance with the 90 day requirement and many hold stocks well in excess of this level. However, for a variety of reasons, particularly the high cost of holding stocks, they oppose an increase above the current obligation.

GAO Recommendation

"...that the Secretary of Energy and the Secretary of State:

> --seek IEA members' agreement to set aside a portion of emergency reserves for possible drawdown in periods of market instability or disruptions not large enough to trigger the Emergency Sharing System."

DOE Comment

A number of proposals have been set forth in the IEA for designation of a portion of stocks to be used in disruptions not large enough to trigger the formal emergency sharing system, i.e., during the so-called "sub-trigger" crises. These proposals have the drawback of committing participating countries to a predetermined formula or mechanism which might be inappropriate to a specific crisis. Therefore, the Administration believes the formal designation of a portion of stocks for any specific use would reduce flexibility and could lead to an inability to respond effectively to all possible situations. The Administration continues to believe that the best way to prepare for oil crises is to ensure that strategic oil stocks are high, to seek conditions conducive to the building of private stocks, and to agree to consult with our allies on what actions, if any, are called for in a given situation.

Insofar as such a system might be implemented in the U.S. through private companies, we oppose Government intervention in private stock decisions. Nor is there authority to mandate stock drawdown by them.

It should be noted that in its discussion of this and other "sub-trigger" issues the GAO leaves the incorrect impression that there is currently an IEA agreement on responses to shortfalls below the trigger. While specific measures were placed in effect at the beginning of the Iran-Iraq war, those measures were taken on an ad hoc basis, depended upon individual national decisions to implement them, and were not extended beyond the first half of 1981.

The IEA has completed deliberation of issues relating to sub-trigger crises. The Administration supports the IEA decision that IEA members will agree to consult closely in the event of such crises to decide what, if any, actions are called for. However, the U.S. has stressed the importance of primary reliance on market forces to resolve any problems which arise. We have strongly opposed the adoption of any formal "sub-trigger" plan and the IEA has agreed not to establish such a system.

GAO Recommendation

"...that the Secretary of Energy and the Secretary of State:

--seek IEA members' agreement to consider creation of a spot market stabilization fund."

DOE Comment

It is unclear whether GAO is recommending the establishment of a monetary fund or a pool of oil stocks for use in the stabilization of spot market fluctuations. The Administration is opposed to either, as any such arrangement would erode the resolve of countries to take adequate precautionary measures of their own to deal with oil crises. Restraint in resorting to the spot market by IEA member countries would be of far greater assistance in stabilizing the market than financing additional purchases at higher prices.

A true spot market stabilization fund would require the designation of IEA stocks to be drawn down in a concerted manner in order to stabilize the spot market, i.e., to keep the price down. However, agreement on a plan for systematic stabilization of prices would be difficult to reach and formal designation of such a pool of stocks for tactical use would be inadvisable for several reasons: it could reduce flexibility to fashion a remedy for specific problems; it might require a level of stocks which is currently economically infeasible; and it would ultimately reduce member countries' willingness or ability to hold high levels of strategic stocks and, therefore, increase their vulnerability. The Administration does not intend to use the SPR for these purposes.

GAO Recommendation

"...that the Secretary of Energy and the Secretary of State:

> --seek IEA members' agreement to provide for thorough and frequent review of the effectiveness of member nation demand restraint programs, and emergency reserves and fair sharing programs."

DOE Comment

The IEA has an active program to review the demand restraint programs of member countries and to monitor the compliance of IEA countries with the emergency reserve requirement. The proficiency of IEA reviews will improve with greater experience, particularly in light of the increasing scrutiny given emergency issues. The United States has proposed that these reviews be extended to cover other aspects of emergency preparedness and include more attention to price.

The Administration agrees as to the need for a more thorough review of IEA member country reserve positions and has proposed an increase in the level of such reserves. This issue is discussed further in connection with GAO's specific recommendation on the size of these reserves.

The DOE believes that the most effective and efficient demand restraint program is market response to a rising price. Thus, mandatory demand restraint mechanisms would most likely be needed only if an economy were under oil price controls. In the absence of price controls many demand restraint measures would be redundant and, indeed, counterproductive. The U.S. has strongly supported initiatives in the IEA toward more economic pricing of energy in all IEA countries and has suggested that impediments to the operation of the free market in IEA countries be closely examined in the ongoing work of the IEA. Naturally, the United States has no plans to attempt to seek the adoption of a wide range of specific energy program measures by IEA member countries, since this would constitute an involvement in the internal affairs of sovereign nations which the Administration considers to be unnecessary and inappropriate.

Under the IEP, countries have discretion as to the domestic programs and policies which they may choose to meet the IEP requirements, particularly regarding the distribution of available supplies among competing domestic users during a shortfall. The DOE will be examining options for a limited fair-sharing system for possible use in the United States. The aim of this system will be to assure U.S. oil companies that they would not be disadvantaged by participating in the Emergency Sharing System (ESS).

GAO Recommendation

"....that the Secretary of Energy and the Secretary of State:

> --seek IEA members' agreement to upgrade or revise the ESS information system to ensure resolution of discrepancies about the flow of oil into and among member countries during a disruption."

DOE Comment

The IEA, supported by the United States, has been working on data deficiencies, particularly those which were identified in Allocation System Test-III. Both DOE and the State Department have been involved in this effort. Specifically:

- The Quarterly Oil Statistics (QOS) program is being upgraded to a monthly system using the QOS format. This will support the emergency data system by providing measured historical information on a more timely basis;
- Through a series of meetings of national data experts, systematic trade discrepancies have been identified and measures have been taken to eliminate those discrepancies wherever possible. Remedial measures include the adoption of uniform conversion factors (barrels to tons) between trading partners; better definition of the reporting scope (e.g. inclusion of petroleum coke) and the use of estimates based on historical patterns to minimize discrepancies resulting from transshipments;
- Efforts are continuing to further reduce discrepancies which result from transshipments and from Rhine River trading;
- Procedural errors have been identified and eliminated. Constant monitoring will, of course, be needed to assure that such errors are minimized.
- The nature of trade differences resulting from transport lags has been better identified and should be more manageable in future ESS operations; and
- A procedure has been proposed for the efficient resolution, under ESS operational conditions, of any major discrepancies which remain.

GAO Recommendation

"...that the Secretary of Energy and the Secretary of State:

> --seek IEA members' agreement to provide a binding mechanism for resolving price disputes among member countries under emergency sharing."

DOE Comment

This GAO recommendation fails to recognize that the basic purpose of the IEA system is to facilitate the *voluntary* allocation of oil among participating oil companies and to allow buyers and sellers to negotiate freely with a minimum of Government interference. The IEA has established a Dispute Settlement Centre so that, in the event that the parties cannot agree on price during an emergency, they can refer their dispute to the Centre for arbitration. While the price dispute resolution process may be subject to future improvements, the process should continue to focus on the needs of buyers and sellers of oil to reach mutually acceptable terms and should minimize Government interference. DOE believes that an agreement providing for the resolution of disputes *among member countries* would be inappropriate and undesirable. Moreover, we do not favor creation of a new supernational authority to set prices for international petroleum transactions and we doubt that the Reporting Companies long would remain participants in emergency sharing if such an authority were created.

GAO Recommendation

"...that the Secretary of Energy and the Secretary of State:

> --seek IEA members' agreement to consider enactment by each of the members of legislation authorizing establishment of an emergency tax on oil products or a crude oil disruption tariff for use in severe disruptions."

DOE Comment

The possibility of such a tax agreement has been discussed in the IEA in the past. However, most members of the IEA have shown little enthusiasm for fee strategies, possibly because most European nations already tax motor gasoline heavily. Even if the IEA members were to agree in principle on a coordinated fee, it would be very difficult to reach agreement on the size of the fee, on the timing and coordination of implementation, and on how the fee would relate to existing agreements on demand restraint and oil sharing under the International Energy Program.

Moreover, DOE believes that the imposition of an import tariff during a disruption raises serious policy and implementation problems. While a jointly applied tariff would raise the price to the consumer and could therefore reduce demand more quickly, the effects of such an increase in addition to the already elevated disruption price might prove particularly damaging to the economy. Also, a tariff involves Government interference in private sector decisions and hence could easily introduce undesirable and costly distortions.

Enhancing Supplies

Question 4: With regard to development of a Strategic Petroleum Reserve (SPR) Distribution Management Manual,

a. When was it decided to develop a SPR Distribution Management Manual?

Answer: In late 1979, a Strategic Petroleum Reserve (SPR) Test Concept was developed which proposed a series of exercises to demonstrate readiness to implement a drawdown. The first of these exercises, conducted in April 1980, was an internal SPR test to demonstrate the operational readiness of physical facilities. During that test, Quick Draw I, 1.3 million barrels of oil were drawn down simultaneously from three SPR sites in a one day period.

The second exercise was planned to document and test the administrative and management functions within DOE that are required to conduct a sale of and actual delivery of SPR oil. The Office of Energy Emergencies initiated efforts to proceed with this second exercise in August 1981. It was decided at that time that the results of this effort would be documented in an SPR Distribution Management Manual.

Question 4: With regard to development of a Strategic Petroleum Reserve (SPR) Distribution Management Manual,

b. What is the relationship of the Manual to the SPR Drawdown Plan?

Answer: The Distribution Management Manual (DMM) describes functions, roles and responsibilities, and procedures which would be followed within the Department to implement an SPR drawdown in accordance with provisions of the Distribution Plan for SPR (SPR Plan Amendment, Number 3, October 1979).

Enhancing Supplies

Question 4: With regard to development of a Strategic Petroleum Reserve (SPR) Distribution Management Manual,

c. What are the logistical, legal, and managerial requirements referred to?

Answer: The statement in prior testimony that "we are developing an SPR Distribution Management Manual (DMM) which identifies logistical, legal and managerial requirements" was intended to address a process we are following in developing this manual. The statement does not imply that a list per se of such requirements has already been developed. Our intent is to identify issues or requirements which will affect the sale and distribution of SPR oil and to assure that internal Departmental procedures in the DMM adequately consider these requirements. An example of a logistical requirement is the time required for pipeline nominations to be accepted which will affect the timing of SPR sales and deliveries.

Question 4: With regard to development of a Strategic Petroleum Reserve (SPR) Distribution Management Manual,

d. Would you please supply copies of relevant background documents that would set forth the schedule and scope of this activity?

Answer: The enclosed Interim Draft Report (Revision 1) Distribution Management Manual for the Strategic Petroleum Reserve, in its preface, describes what the DMM represents and how it was developed. It also indicates what steps are necessary to complete the document, as noted below.

DOE expects to "walk-through" the decision-making and management procedures next month. A full "exercise" of the system, exclusive of actually selling oil (to be simulated) is tentatively scheduled for this fall. It is planned to incorporate lessons learned from this exercise into a final DMM by late 1982.

(The subject interim Draft Report is retained in the Committee files.)

Enhancing Supplies

Question 5: With regard to alternative drawdown approaches for use of SPR oil in a potential crisis,

a. When, and on what schedule, was it decided to undertake a review of alternative SPR drawdown approaches?

Answer: Since the inception of the SPR, the Department has been continuously involved in review of potential contingency response options and procedures to assure their readiness and to ensure they reflect the evolving nature of the current energy situation. For all cases (including the SPR) we evaluate selected supply disruption scenarios against a backdrop of current domestic and international energy circumstances and assess impacts expected to result from various responses, including the SPR. In each such evaluation, we consider SPR use only in accordance with approaches described in Amendment No. 3 (Distribution Plan for the Strategic Petroleum Reserve) to the Strategic Petroleum Reserve Plan.

Question 5: With regard to alternative drawdown approaches for use of SPR oil in a potential crisis,

b. Would you describe in detail the alternative drawdown approaches under consideration?

Answer: Apart from its emphasis on operational readiness (described in 5.a.), the Department seeks constantly to assure that candidate emergency response options are evaluated regularly and carefully. Such evaluation permits us to incorporate options offering improvements into operating programs which we could implement in an emergency.

In this context, there is a current study of SPR drawdown approaches underway. While we have not completed the plan for this study, the candidate alternative approaches will likely include, at a minimum, examination of the influence of various SPR drawdown strategies on the behavior of private inventories and the relative impact of SPR sale through a futures or option market.

The workplan for this study will be completed by early June of this year. We would be happy to send you a copy at that time.

Enhancing Supplies

Question 5: With regard to alternative drawdown approaches for use of SPR oil in a potential crisis,

c. Would you anticipate that a revised Drawdown Plan will be submitted to the Congress and, if so, on what schedule?

Answer: The Department has no plan at present to revise Amendment No. 3 to the SPR Plan.

Question 5: With regard to alternative drawdown approaches for use of SPR oil in a potential crisis,

d. Was this approach approved by the Cabinet Council? If so, when? If not, will it be submitted to the Cabinet Council?

Answer: As noted in response to Questions 5.a. and 5.b., the review of SPR drawdown approaches is part of DOE's routine energy emergency preparedness planning activities. As such, no formal submission to the Cabinet Council has been made, nor is any such submission contemplated.

Question 5: With regard to alternative drawdown approaches for use of SPR oil in a potential crisis,

e. Would you please supply copies of relevant background documents that would set forth the schedule and scope of this activity?

Answer: We will complete the workplan for the planned study by early June of this year. We would be happy to give you a copy then.

There is other work underway to explore the range of information that will be available for consideration of SPR use during an emergency, an efficient organization and suggested interpretation. Although incomplete and little more than a working paper at present, an early draft of the findings of that study is attached for your information.

Enhancing Supplies

Question 6: With regard to encouragement of private stocks,

a. When, and on what schedule, was it decided to encourage private stocks?

b. What are the options being evaluated to create incentives and to eliminate disincentives?

Answer: We are identifying prospective options to be evaluated. These will likely include federal financial incentives and those with little or no budgetary impact, including removing existing disincentives. We expect to complete this work by the end of June and shall be glad to share the list of options with you then.

It should be emphasized that this project is a study -- there has been no decision by the Department to recommend any particular option, nor can it be assumed that any such recommendation will be forthcoming. The only point that has been decided is that these are important issues which DOE believes should be studied.

Question 6: With regard to encouragement of private stocks,

c. Would you please supply copies of relevant background documents that would set forth the schedule and scope of this activity?

Answer: Attached is a preliminary workplan that provides information on the scope of the project and schedule of activities. Also attached is a discussion paper prepared by Alvin A. Alm and Edward N. Krapels, for the Harvard Energy Security Program with DOE funding, entitled: "Building Buffer Stocks in a Bear Market: Policy Choices for Emergency Oil Reserves."

BUILDING BUFFER STOCKS IN A BEAR MARKET: POLICY CHOICES FOR EMERGENCY OIL RESERVES

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BUILDING BUFFER STOCKS IN A BEAR MARKET: POLICY CHOICES FOR EMERGENCY OIL RESERVES*

Building a strategic petroleum reserve has proceeded during the past two administrations in spite of controversy over emergency measures in general. While free market advocates claim that the market can handle supply interruptions if it is merely left alone, interventionists counter that the market is unlikely to work correctly without the use of price and allocation controls. These disagreements have forced a stalemate over most elements of energy security policy. Yet, the two sides generally share the same, strong commitment to developing a large strategic oil reserve. Such an underlying consensus testifies to both the intellectual credibility of the reserve concept and its political acceptability to decisionmakers.

The Strategic Petroleum Reserve (SPR) is designed to serve a number of purposes. As a major new supply source, it should reduce concern over availability and price during an oil emergency, thus reducing much of the panic stockpiling that drives up prices. Depending on the depth and duration of an interruption, strategic reserves could substantially reduce prospective world oil price increases and subsequent macroeconomic damage to the world economy. The Congressional Budget Office estimates that for a 3.5 mmbd interruption, each barrel of oil released from a strategic reserve would reduce real GNP losses by $216 to $374 during the year of the shortfall.[1] In addition, a large reserve could enhance political options by buying time during periods of international tension and by providing a basis for cooperation among the alliance powers. Large stockpiles might even deter certain forms of politically inspired embargoes. Finally, if an interruption were severe, the SPR would reduce personal inconvenience and actual hardship resulting from insufficient supplies.

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* The authors gratefully acknowledge Michael Pontrelli for his assistance throughout the writing of this paper.

Despite such benefits, as well as strong, nonpartisan support, the future of U.S. emergency reserves is in doubt. The impressive progress made in 1981 is not likely to be repeated. During this period, the SPR increased from slightly over 100 million barrels to roughly 220 million barrels by the end of the calendar year; it was filled at an average rate of 330 thousand barrels per day.[2] Private stocks dropped somewhat from 1980 highs, but remained above historical levels. If this rate of progress were sustained, which is sensible considering the present oversupply of oil, we could be optimistic about the future of our strategic reserves. Unfortunately, current plans call for a drop in the SPR fill rate, while private stocks are likely to fall as well.

Barring a change in approach, the drop in fill rate will occur automatically because of reserve capacity limitations. At the end of October 1981, the capacity of reserve salt domes was 250 million barrels. One year later, available space will have grown to only 267 million barrels due to physical constraints on the rate at which new capacity can be brought on line (see Table 1). Not until fiscal year 1986 does the strategic reserve pass the 500 million barrel mark, which is only half of its original target and which occurs six years later than proposed by President Carter. Assuming the need for at least 90 days of imports, or about 500 million barrels, the United States will face a "window of vulnerability" until mid-1986 under the current SPR program.

Table 1

DOE Expansion Goals and Fill Based on July 1981 Expansion Schedule

Fiscal Year	Storage Capacity Available at end of fiscal year (millions of barrels)	Annual daily oil fill rate during fiscal year
1982	267	186,000†
1983	343	208,000
1984	417	203,000
1985	456	107,000
1986	538	225,000
1987	611	200,000
1988	670	162,000
1989	750	219,000
Average		189,000

† GAO calculation based on DOE's goal of filling 267 million barrels of available storage capacity by the end of fiscal year 1982.

Source: SPR Acceleration Report to the Secretary, July 1981, Strategic Planning and Analysis Division, SPR Office.

Figure 1 summarizes the problem in graphic form. The current SPR target of 750 million barrels, or about 120 days of import protection, will be achieved in 1989. Because of physical constraints, the reserve would be limited to a fill rate averaging less that 200,000 barrels per day, compared to the 330,000 barrels per day during calendar year 1981. In contrast, a "fast-track" rate of 300,000 b/d would effectively achieve the 750 million barrel level by 1987, while closing the window of vulnerability by 1985. Such an accelerated track would require the adoption of one or more of the initiatives that will be discussed later.

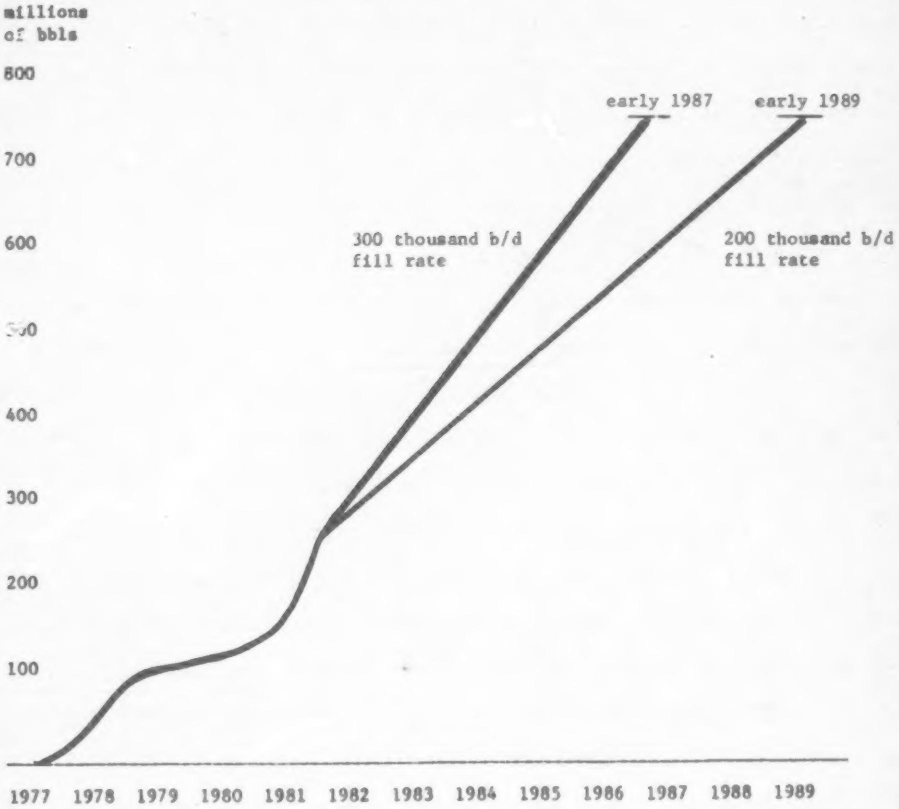
The threat of diminished funding poses a second problem. Looming federal deficits make the multi-billion dollar SPR program an attractive target for the budget axe. The fiscal year 1983 budget for the Department of Energy currently provides sufficient funding to fill at the physically constrained rate of 200,000 barrels per day. But SPR budget cuts will remain an inviting way to reduce government borrowing requirements in the future.

The decrease in the rate of SPR fill is particularly troublesome because private stocks are likely to decline in the near future. Figure 2, which traces crude oil stocks during the 1970s, shows that companies held between 19 and 24 days of stocks (defined as refinery input) throughout the 1972-79 period. After the Iranian Revolution, however, inventories soared to a range of 26 to 34 days. These stocks were built up during 1979 and 1980 because of fear of shortages and higher prices. Today, conditions are different. World oil prices are falling, interest costs are high, and the world oil market appears stable. With interest rates of at least 15 percent, the cost of holding a barrel of oil for one year is in the range of $6 to $9. Oil prices would have to rise sharply to make private stockpile investments pay off.

Figure 1

SPR DEVELOPMENT AND PROJECTED GROWTH AT:

200 and 300 thousand barrels a day 1977-1989



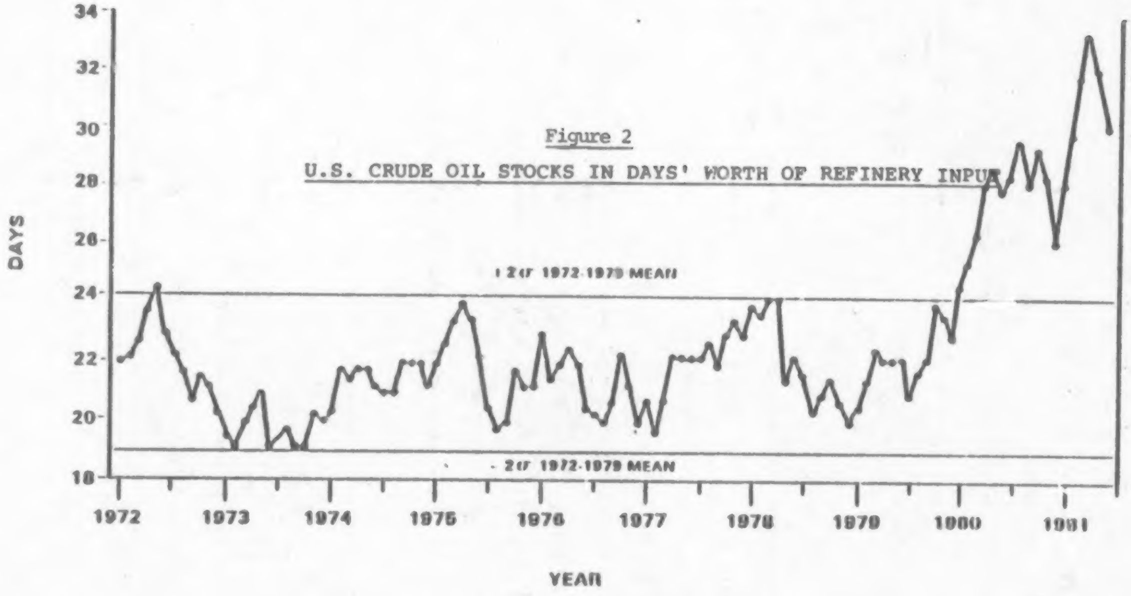


Figure 2

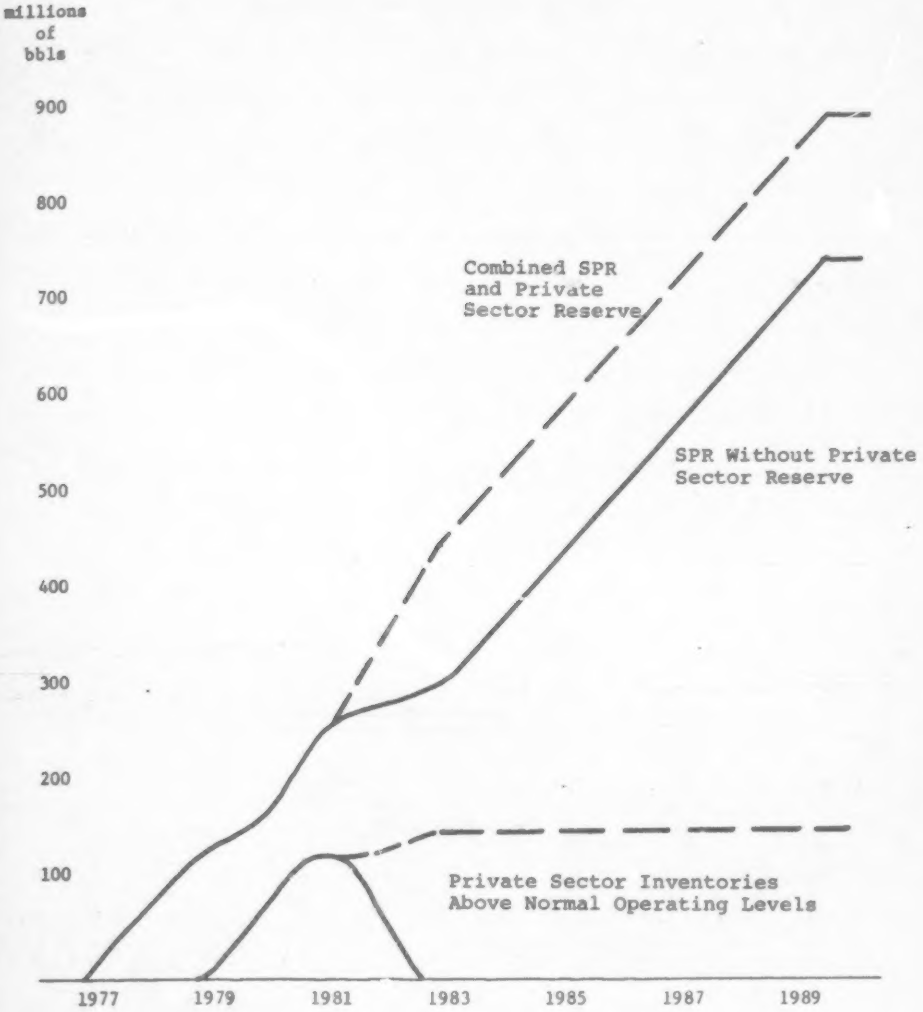
U.S. CRUDE OIL STOCKS IN DAYS' WORTH OF REFINERY INPUT

The major oil companies claim they are in the process of liquidating inventories. DOE data indicate that stock levels remained relatively constant through the close of 1981.[3] However, these same data show that oil company liftings are declining, though such reductions have yet to overtake drops in demand.[4] On the whole, industry claims are supported by this evidence, while continued high stock levels may be due to greater than anticipated consumer demand reductions and to the fact that oil companies are often constrained by established contracts with oil-producing nations. Whether stocks will eventually fall as low as historical levels is uncertain, since oil companies may elect to hold somewhat greater insurance stocks. However, the obvious costs of holding stocks, coupled with current expectations about world oil prices, will most likely lead to a rapid drawdown of stocks during 1982.

Private stocks greatly enhanced total U.S buffer stocks in 1980 and 1981, and could continue to do so until the SPR is larger. Figure 3 shows in simplified form how private sector stocks could add to our import interruption insurance. The lower curve shows the excess of private inventories over estimated normal operating levels. The two upper curves show the expansion of emergency reserves due to a private sector stockpile equivalent to ten days of oil consumption, or twenty-five days of imports (assuming the planned SPR fill rate of roughly 200,000 b/d). The 150 million barrel reserve represents a 50 percent addition to total U.S. emergency stocks by 1983, which shows how useful private stocks could be during these early years. By 1989, however, private stocks would represent only 20 percent of the total, as the SPR assumes an increasingly large percentage of the total.

Figure 3

DEVELOPMENT OF U.S. RESERVES
UNDER DIFFERENT ASSUMPTIONS
ABOUT PRIVATE SECTOR INVENTORIES



Much of the public concern over reserves has focused only on size. Yet, there are also real questions as to whether management of the reserve will produce the intended benefits. If strategic stockpiles of other commodities are any indication, the SPR may not be used at all, except in a dire emergency. And whenever the reserve is used, simply distributing large amounts of oil in a short time will be an enormous logistical task with considerable room for breakdown and confusion. In addition, strategic reserve drawdowns will be subject to intense political pressures. During an interruption, data will be confusing and contradictory, recommendations will be diffuse, and decisionmakers, exercising bureaucratic caution, will wish to keep options open as long as possible.

These barriers are of particular concern given the need to act quickly and decisively at the outset of a supply interruption. In 1979, for example, the primary cause of economic damage was not the interruption itself, but panic buying induced by the shortfall. When oil companies perceived that future supplies would be tight and prices higher, they rapidly built up stocks, which led to the 120 percent price increase in 1979. In theory, the government could quell panic and blunt initial price pressures through effective use of the strategic reserve. In practice, for both the administrative and political reasons outlined above, such effectiveness may not be forthcoming. Hence, a combination of public and private stocks may well be of greater value than an equal amount of public reserves alone.

These four concerns -- a physically constrained SPR fill rate, threatened budget cuts, declining private stocks, and management limitations of a centralized reserve -- all argue for reexamining U.S. stockpile options. Indeed, considering the current political consensus, stockpiles may be the only available means of combatting supply interruptions. It is helpful to formulate the various policy options according to these categories:

- Options aimed at speeding up SPR fill by overcoming physical constraints.
- Options aimed at overcoming physical and budget constraints.
- Options aimed at creating permanent private stocks.
- Options aimed at establishing a mechanism to involve oil companies in stockpiling decisions.

Each successive set of options adds new objectives to the preceding set. For example, the first set of options would simply provide for alternative storage capacity faster than the current SPR plan. The second set would not only require extra capacity, but alternative financing for oil purchases as well. The third would meet the first two objectives, while also establishing a permanent strategic level of private stocks. And the final category would demand an entirely new institutional and financing arrangement for the storage of oil, in addition to meeting the other objectives.

Options Aimed at Speeding up SPR Fill by Overcoming Physical Constraints

1. Government ownership. The most straightforward option, and one listed in the Department of Energy's Acceleration Report to the Secretary,[5] would be to purchase and fill steel storage tanks in addition to filling the salt domes. Presumably, the tanks could be close to existing SPR sites and pipelines, allowing the Department to integrate their use with the rest of the strategic reserve. The extra oil could be transferred to the salt domes as further capacity is developed or it could be permanently stored in the steel tanks as a net addition to the SPR.

The direct purchase of steel tanks has a number of advantages. It would not conflict with the current management system for the SPR. It does not, for example, raise questions about who owns the reserve, or how it would be sold. The oil could be withdrawn and distributed along with oil currently in the salt domes; no special transportation or transactions would be necessary.

The disadvantage is cost. New steel tanks cost anywhere from $8 to $12 per barrel of storage, compared to the reserve's salt dome costs of $5 per barrel.[6] For temporary storage, leasing of space may be a cheaper option, as discussed next, but the purchase of steel tanks may be desirable if a long period of storage is forecast before transfer to salt domes, or if the oil is to be permanently stored in tanks.

2. Leasing space. The government could lease private storage space for the reserve, presumably at already existing facilities. At least one U.S. chemical company reportedly has excess salt cavern space available. For years, facilities have been offered for lease in Rotterdam. Oil tankers could also be used during the current glut. Indeed, some tankers are slated for the scrap heap unless an effective use can be found for them. As U.S. oil companies draw down stocks, some of their capacity may become available at reasonable cost.

To initiate a storage leasing program, the government would request bids to store SPR oil for specified periods of time. Assuming that some of the resulting bids were attractive, the government could choose how much oil to store in leased facilities based on these firm cost estimates. It would then lease the facilities, purchase the oil and store it for the specified time period. As further salt dome capacity is completed, the oil could either be physically moved to the salt caverns or, more likely, traded for equivalent amounts of oil in transit to the United States.

This option is a potentially cheap way to reduce the window of vulnerability. It does, however, add a layer of management complexity. If the oil is stored on the site of a particular refinery, how readily available is it for sale and distribution to other refineries? Would some arrangement need to be made for swaps of oil to overcome logistical problems? While troublesome, the oil industry has dealt with the logistical transfer of oil for some time. Presumably, such transfers could be arranged as part of a leasing arrangement as well.

Options Aimed at Overcoming Physical and Potential Budget Constraints

A number of options are available to overcome both the physical constraints on the current SPR program and the potential constraints of tighter budgets. These include direct government leasing of stockpiled oil or providing incentives for industry to stockpile. Both options imply substantial changes in the current system of managing the strategic reserve.

3. Government Competitive Leasing of Oil Storage. The government could lease oil as well as storage space from the private sector. For example, it could choose to lease 150 million barrels from industry through 1985, with the option to purchase some or all of that oil in subsequent years. Such an option would be exercised either during an interruption, or when the lease was about to expire as a means of filling the salt domes. As with the previous leasing option, the program would be initiated through government solicitation of bids. Once bids had been evaluated, the government could choose the most appropriate mix of oil storage. While cost would be most important,

proximity to pipelines and refineries would also be a consideration in selecting among the bidders. A 150 million barrel leased reserve would cost $900 million to $1.35 billion annually in carrying and storage costs.[7] This compares with a $700 million cost to hold a similar amount of oil in the strategic reserve. What this option avoids, of course, is the large initial outlay -- on the order of $5 billion — required to buy the oil.

Two features would be necessary to make a leasing program acceptable. First, the leased oil, even if stored at refineries, would need to be rigorously segregated for management purposes, as well as to demonstrate that the oil is not to be regarded as part of companies' normal operating stocks. Second, the government must be able to purchase the oil during the leased period at some specified price. During supply interruptions, the oil would then be resold at auction, with all firms having an equal chance to bid.

This proposal has the attraction of providing insurance quickly without large, near-term budget costs. It should also be popular in the private sector, particularly with oil companies. If successful, it could tap low-cost storage options and allow the government to stockpile aggressively by leasing as well as purchasing oil while prices are low.

It does have drawbacks. Although an effective way to overcome both physical and budgetary constraints, this proposal is more costly than direct oil purchases in the sense that the government's cost of capital is less than industry's. Second, during an interruption, this proposal would require huge outlays to pay for the leased oil. If the full 150 million barrels were purchased, the cost would be $5.25 billion at current prices. Revenues from resale of the oil should more than cover these costs, but the large emergency appropriation may be difficult to steer through Congress.

4. Traditional tax credits for industry storage. Structuring a tax credit for private stockpiles is not as easy as it seems. Difficult conceptual problems arise as to the level of the credit, the private stocks to which it would apply, and the distribution of gains from ultimate sales. This analysis covers only some of the issues that would need to be addressed. It does confirm that any economic incentive is likely to be complex in practice.

One must first determine the proper level of the subsidy. Let us assume that oil costs $33 a barrel to acquire and that any new storage capacity would cost $10 a barrel to construct. Let us further assume that interest costs on corporate bonds are 15 percent, (12 percent on long-term government bonds), and that a firm's before-tax opportunity cost is 30 percent. On this basis, should the government subsidize both storage and the carrying cost of the oil? Should the rate of subsidy be based on the firm's financial opportunity cost, the firm's borrowing cost, or the government's borrowing cost? Or is some other level appropriate?

Some of these questions can be answered, at least tentatively. There appears to be no need to subsidize storage. Either a firm will have available capacity now, or it could take advantage of a one-year write-off for new capacity, which is basically equivalent to a 50 percent subsidy. (Some payment may be necessary if operating costs are significant, probably on the order of $1-$2 a barrel). There is probably no need to subsidize at the firm's opportunity cost of capital either, since stocks have operational and insurance value. The firm's or the government's cost of borrowing are both possibilities, although neither has any definitive conceptual base. The difference between these options is large: roughly $10 a barrel at the firm's opportunity cost, $5 a barrel at the company's cost of debt, and $4 a barrel at the government's borrowing cost. Since we have no good measure of the marginal benefits and costs to oil companies of holding additional stocks, we can only speculate about the proper subsidy level.

An even more perplexing problem is how to establish the category of stocks for which subsidies would be paid. Since two-thirds of all stocks are held for minimum operating purposes,[8] an incentive program should be designed to cover, at most, only stocks above this level that could readily be drawn down during oil cut-offs. If one assumes that industry will choose to return to the 19 to 24 days of stocks that were held during the 1972-79 period, then the subsidy need only cover reserves in excess of these levels. Each firm's base period could be established from some average over the period and only stocks held above that level would be eligible for tax credits. On the other hand, if one assumes that the higher stock levels held since the Iranian Revolution represent a new consensus on the risk of an interruption, then 1980-81 stock levels may well be appropriate as a base. A third option would be some average between the two periods.

Deciding on an appropriate base level will be critical to the success of the program. If the base is set too high, the tax credit will not cost much but it also will not accomplish much. If the base is established too low, then treasury losses could be substantial in proportion to gains in stock levels.

If oil prices again rise sharply, the distribution of economic benefits from stockpile sales also becomes a serious issue. If the oil companies are allowed to collect all the economic rents, then taxpayers would be footing the bill for the companies' speculation. If the government captures the gains, then the incentive to oil companies to participate is decreased and the subsidy must be increased. In practical terms, the increased rents should probably be shared. But to do so, the stockpiled oil would have to be accounted for from purchase to final sale.

Overall, an industrial tax credit for stockpiling is extremely complex, as the discussion of credit size, eligible stocks, and division of profits clearly shows. The marginal tax rate for many companies may already be so low that the tax credit would not act as an incentive. If building greater private stocks becomes a major public policy goal, then different formulations should be pursued.

5. Price Guarantees for Private Stocks. Private firms currently have little incentive to maintain stocks above normal operating levels. Oil prices must increase by at least 15 to 20 percent a year simply to cover interest costs on these extra stocks. While this was the case in both 1979 and 1980, today's declining prices and high interest rates have combined to make surplus stockholding generally unprofitable. Barring another supply interruption, such price increases appear unlikely over the next few years as well.

One means of encouraging higher stocks would be to provide greater assurance about the future. Specifically, the government could enter into contracts to guarantee the future price of oil, and to pay firms the capital cost of holding extra oil.[9] Stockowners would receive both the guarantee and capital payments for stocks accumulated during one year and discharged the next. For example, if a refinery held an average of 110 barrels of oil in 1982 and 100 in 1983, it could receive a carrying charge of roughly $7 a barrel for the ten extra barrels carried in 1982 and sold in the following year, assuming no change in the world oil price. If the price fell from $33 to $28 a barrel, the government would pay the firm an additional $5 a barrel. If the world oil price rose to $40 a barrel, the government would pay only $2 ($7 capital payment minus the $5 increase in the price of oil). If the government wished to extend the program beyond one year, it could provide the same guarantee in 1983-84, while paying out the capital subsidy in 1983 or carrying it forward to the future. In this example, the firm could then cash in on its ten barrels in a later year, or perhaps build further stocks before selling.

While this proposal may sound complex, it endeavors to accomplish three simple objectives. First, it removes the financial disincentive against holding higher stocks. Second, it overcomes many of the problems encountered with a straight tax credit, such as fixing the base. Third, government payments are deferred until after the country has received the insurance benefits of higher stocks. Moreover, government payments are high only if the country escapes an oil interruption during the period; if prices rise sharply, government liability rapidly disappears. The program's major disadvantages arise from its novelty and budgetary uncertainty. The untried notion of entering into arrangements in 1982 for a program that will not make actual payments until the end of 1983 may be difficult to present in Congress. In addition, if the program were extended beyond 1982-83, the government would face a growing contingent liability which could be extremely large if oil prices were to fall during the period. Finally, as with the traditional tax credit, firms would be in a position to capture windfall profits on stocks subsidized by the program.

Options Aimed at Permanent Private Stocks

While the previous subsidy schemes could be made permanent, they lend themselves more to temporarily building up stocks. If a permanent reserve of private stocks is considered an important national goal, then mandating stock levels appears to be a more manageable option.

6. Mandatory stockpiling. Section 156(b) of the 1975 Energy Policy and Conservation Act (EPCA) gives the President authority to compel U.S. refiners and importers to hold emergency stocks equivalent to no more than 3 percent of either their annual throughput or imports. Three percent of 365 days is approximately eleven days, with eleven days of throughput equal to about twenty-seven of imports. Hence, existing legislation allows the President to establish an emergency private sector reserve. These reserves would presumably be segregated from normal operating stocks to facilitate adequate monitoring, and the President would have the power to order that they be drawn down. The cost of holding the stocks would be borne by the oil companies and passed on to consumers. Such an option has precedent since most European countries already employ mandatory requirements, usually on the order of 90 days of imports.

The mandatory stockpiling option has a number of advantages. It provides a predictable way to build stockpiles. The costs of the program are correctly passed on to oil consumers, thereby reflecting the social cost of the oil they purchase. Budget costs would be reduced as well.

The biggest disadvantage is that virtually no one has seriously suggested using the EPCA authority, even in the Carter Administration. The Reagan Administration and the oil companies would be unlikely to view this option favorably, nor has any member of Congress advocated the idea. In addition, since some firms normally hold higher inventory levels than others and have different capital structures, this proposal could be inequitable to some firms. Finally, the mandatory requirement does not avoid some of the administrative problems posed by incentive schemes. Defining and monitoring each refiner's level of operating versus emergency stocks could become a bonanza for accountants, but it may not add much to the nation's oil stockpiles.

7. Mandatory Stockpiling with Subsidy. In order to reduce some of the political opposition to mandating stockpiles, the government could subsidize all or part of the oil companies' interest and storage costs associated with meeting the requirement. This option would be designed to dampen the opposition of oil companies and of consumers not wishing to pay higher prices, while preserving the predictability of a mandatory system. Yet, it would not necessarily improve the equity of the system, since the tax position and opportunity costs of firms will differ. Finally, such relief would generate new costs to the government.

Option Aimed at Establishing a Mechanism to Involve Oil Companies in Stockpiling Decisions

8. The Public-Private Corporation. The potential management and political problems inherent in managing a central reserve are a reason for looking at an entirely different institutional structure. Many of the previous options merely accelerate reserve fill, but do nothing to change the basic management system. The two mandatory stockpiling options aimed at creating a permanent strategic reserve in the private sector recognize the desirability of depoliticizing reserve decisions and creating a more flexible response to interruptions. Yet they do not address the vexing problem of coordinating public and private responses to interruptions, nor do they appear to be politically feasible. Effective coordination could go a long way

towards reducing the panic inventory building that generally accompanies an interruption.

One possible mechanism to coordinate stock use between government and industry is a joint public-private corporation which would store oil and manage drawdowns during an interruption. Such a corporation might hold and manage anywhere from one-fourth to one-third of all emergency stocks. These stockpiles would constitute a flexible reserve at the outset of an interruption, which could be used to quell panic, blunt initial price increases, and assure access to crude for the most directly affected refineries. The centrally managed SPR would be available to back up the corporation during truly large interruptions.

The corporation would be modeled after the public-private corporations currently existing in the Federal Republic of Germany, Switzerland, and the Netherlands.[10] It would borrow funds to purchase oil and assess oil industry participants for operating and interest costs. In order to raise money initially in private capital markets, the corporation's debt could be guaranteed by the federal government, or part of the SPR oil could be transferred to the corporation as equity. Oil purchased by the corporation could also serve as collateral for loans. Refiners would make annual payments to the corporation in proportion to their annual throughput, and perhaps weighted according to imports. This proposal differs from the mandatory stockpile proposal in that firms are no longer required to put up their own capital to buy oil, but rather are only assessed for operating costs.

The corporation would serve a number of functions. It would purchase and hold oil as an agent for companies. In this sense, it would act as a financial intermediary. It would decide as a corporate body on how this oil would be released, with one of its missions being to reduce panic stockbuilding at the outset of an interruption. Finally, it would insure each company against disproportionate damages during an interruption. If a particular interruption cut off access to crude oil for some refineries, stockpiled oil could be distributed to these companies on a temporary basis.

Such a corporation could fill many gaps in our current emergency preparedness management structure. But in order to do so, its management must be credible, insulated from government, and responsible to a broad public interest. Most likely, the corporation's board would need to consist of some representatives chosen by the industry and some chosen by the President. The oil companies have operational control of the refining and distribution system. Hence, for the sake of maximum efficiency in responding to an interruption, they should have an important voice in deciding on withdrawal strategies. The addition of government and private representatives should ease fears about collusion. By relying upon the expertise of the oil industry and by insulating corporation decisions from government,* many of the management pitfalls of a centralized federal reserve could be avoided, thereby allowing the corporation to respond quickly and efficiently at the outset of an interruption.

The corporation option has many positive attributes, at least in theory. It could provide a mechanism for coordinating government and private stockpiling efforts. It could partially insulate decisionmaking on stock withdrawals, and even filling, from domestic and international political pressures. It could augment the nation's strategic stocks without direct claims on the budget. And, it could help individual firms in adjusting to abrupt cut-offs in supply.

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* In creating an independent decision-making body, the role envisioned for the corporation is analogous to that of the Federal Reserve Board. (This observation is made to help the reader understand the decisionmaking structure. Considering the current level of interest rates, the authors would not use this example as an argument in favor of an oil stockpiling corporation.)

But the drawbacks may also be substantial. First, a basic hope for the corporation may turn out to be unrealistic: while it is suggested as a solution to a host of management problems faced by current institutions, the corporation might also amount to replacing one flawed institutional system with another. In practice, the corporation may not offer independent and decisive action, but rather, could wind up relying on the federal government to enunciate national stock policy. In addition, the creation and implementation of successful new institutions takes time. The idea of a Synthetic Fuels Corporation was born in the summer of 1979; in the winter of 1982, the corporation remained at a formative stage. Finally, it is difficult to find any kind of support for such a corporation in the United States. In the Federal Republic of Germany, its political impetus derived from industry opposition to a mandatory stockpiling requirement. In the United States, oil companies would probably oppose the corporation since they have little reason to fear the enactment of mandatory requirements.

Comparison of the Options

One option not discussed in this cornucopia is the status quo. After all, the status quo requires no new investment of funds, management attention, or political capital. If no crisis occurs over the next decade, doing nothing might appear to have been an acceptable choice. But looking ahead, it is necessary to assess how likely another supply disruption is and how extensive the damage might be. It is the same kind of assessment we all make in choosing to buy life or fire insurance.

The risk of inaction is large. The cost of each of the last two oil interruptions was in the hundreds of billions of dollars, while the price of holding an additional 150 million barrels of oil is in the neighborhood of $1 billion annually. Such a reserve would minimize the economic impacts from an oil interruption, buy time for diplomacy, and help the western alliance to weather the storm of an oil shortage. The United States plans to spend over $300 billion annually on national defense by 1985; a total of $2.5 billion is authorized for the rapid deployment force in 1982 and 1983. One billion dollars a year does not seem like a high price for the type of economic and political insurance offered by the strategic reserve. Most observers agree that one or more oil interruptions are likely in this decade, and these might be much more severe than their two moderate-sized predecessors.

Even if one concludes that more insurance is preferable, the choice of the best policy is not easy. To choose a course of action, one must consider the price, both in terms of annual budget costs and total program costs. But even more important, one needs to think carefully about what objectives are sought and how feasible each of the options is in achieving the chosen objective. If lack of storage capacity, for example, is the only concern facing decisionmakers, then either government purchase of steel tanks or leasing of storage capacity would be acceptable options. Yet, the costs of purchasing oil require greater federal borrowing. If the reserve were filled at 300 thousand barrels per day instead of the currently planned 200 thousand barrels per day, the extra fiscal year 1983 costs would be over $1 billion. If, however, the Administration and Congress concluded that the management advantages of the current system outweigh the near-term budget costs, then one of these options could be chosen. Of the two, leasing space looks more attractive than government purchase of steel tanks. The latter option should be considered only if lower cost alternatives are not uncovered in soliciting bids, or if the oil is to be stored in tanks for an extended time.

If concern heightens over SPR borrowing requirements, then two general options are available to overcome physical constraints with minimum budgetary impact. Competitive leasing of stockpiled oil, with the option to purchase at a later date, appears feasible and could be accomplished with minimum disruption to the program. Budget costs would be deferred as well. In contrast, the incentives for private stocks suffer from significant defects: the familiar tax credit would be difficult to structure, and the results are uncertain. The more sophisticated price guarantee for surplus stocks may be less complicated, but its novelty and unpredictable cost could be serious political drawbacks.

If the goal is to create a permanent private sector reserve, then the mandatory fill option, with or without federal assistance, is technically feasible. Politically, however, there is virtually no support for such a requirement in the United States. The three previous administrations have shown no interest in using the EPCA authority, and the current administration would probably find it particularly unacceptable.

The public-private corporation suffers from some of the same defects. Unlike the mandatory stockpiling proposal, however, there is less demonstrated hostility. Moreover, the corporation serves a much wider range of objectives — such as creating a forum for industry-government cooperation on stockpiles and a mechanism for joint oil company insurance against small interruptions.

In many respects, the best options are at the two extremes. If the goal is to fill the SPR more quickly by overcoming capacity constraints, leasing of space or leasing stored oil are both feasible and sensible options. At the other extreme, the public-private corporation offers a variety of useful features that are worth pursuing. Between these options are those designed to build up private stocks, by either incentive or fiat. Yet the economic incentives may be too complicated and unpredictable; the mandatory schemes, politically unacceptable. For what they are designed to accomplish, the leasing or corporation options appear to make the most sense.

These two options are at much different levels of readiness. The leasing options could easily be tested by a Department of Energy solicitation of bids for storage space and for oil itself. Depending on budget conditions and the results of the solicitation, one of the two leasing options could be considered as a serious contender for improving SPR readiness in relatively short order.

The corporation option requires both serious analytical work and a means of testing its political feasibility. Thus far, the oil stockpiling corporation has failed to capture the attention of two administrations and the Congress. It has not even received the courtesy of criticism and controversy. Yet, the government must ultimately confront the issues of managing the strategic reserve and coping with continued budgetary crises. The crude oil access problem will not go away, and it could ultimately saddle the United States with an allocation program. While the authors are reluctant to suggest that this new institution would be a cure-all for such troublesome issues, the corporation is certainly an option that could serve many objectives. It is one of few ideas designed to improve management of emergency reserves and reduce political pressure during interruptions, provide a mechanism for cooperation between the public and private sectors, and give greater responsibility to the oil industry in coping with oil shortfalls. With further analysis and refinement, a stockpiling corporation may emerge as the most promising bridge between a centralized strategic reserve and the private sector.

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3. U.S. Department of Energy, *Monthly Energy Review* (Washington, D.C., December 1981), pp. 30.

4. *ibid*., pp. 30-31.

5. U.S. Department of Energy, "Strategic Petroleum Reserve Acceleration: Report to the Secretary" (Washington, D.C., July 1981).

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7. Throughout this paper, the holding costs of oil are taken from Exxon Corporation, "World Oil Inventories," *Exxon Background Series*, August 1981, p. 14.

8. *ibid*., p. 6.

9. The authors are indebted to Bill Hogan for the scheme developed in this section.

10. For a discussion of stockpiling policy in these nations, see E.N. Krapels, *Oil Crisis Management: Strategic Stockpiling for International Security* (Baltimore: Johns Hopkins University Press, 1980); for a detailed outline of the elements of a public corporation in the United States, see S.D. Goldberg and H. Seidman, *The Government Corporation: Elements of a Model Charter* (Washington, D.C.: Public Administration Service, 1953).

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Enhancing Supplies

Question 6: With regard to encouragement of private stocks,

d. Was this approach approved by the Cabinet Council? If so, when? If not, will it be submitted to the Cabinet Council?

Answer: Our approach is preliminary and the Cabinet Council knows that we are developing an approach. At this time we have not submitted such work to the Cabinet Council, and there would be no need to do so since the activity involves routine study and analysis.

Mitigating Impacts

Question 7: Describe in detail what the Administration is doing to develop coordinated responses among the IEA members.

In particular, describe in detail:

a. The contingency plans for a National Emergency Sharing Organization.

Answer: The IEA coined the term "National Emergency Sharing Organization: (NESO)" to denote the body within each IEA country responsible for (1) liaison with the IEA on international oil allocation during an emergency; and (2) national oil emergency matters.

The Department of Energy functions as the U.S. NESO, and a number of DOE Offices carry out NESO responsibilities. Presently DOE staff are working to delineate and codify these duties.

The goals of this project are: to identify the discrete operations implied in the general definition of NESO responsibilities; to associate these operations with specific Federal offices (some may not be DOE offices); to identify the flow of operations between offices in performing NESO duties; to suggest new or modified operating procedures, system flows, communications links to enhance performance; and to document these operations, responsibilities and systems.

We expect to have an interim NESO Management Plan by April 30, 1982.

NESO MANAGEMENT PLAN

I. OBJECTIVES

The DOE has been designated as this country's National Emergency Sharing Organization (NESO), and as such, under IEA procedures, has the responsibility for carrying out the U.S. role in the IEA Emergency Sharing System (ESS). The overall purpose of this project is to develop and document a system for carrying out these responsibilities. The following are the major objectives:

- To analyze the responsibilities of DOE, other U.S. Agencies, and the private sector with regard to the initiation and operation of the ESS.
- To translate these responsibilities into a system of discrete operations, and to identify the component of DOE or other U.S. Agency responsible for each operation. Where appropriate, alternative ways of accomplishing a particular objective will be investigated.
- To identify the temporal constraints and requirements for each operation; to uncover any timing or coordination problems; and to identify and propose ways in which timing and coordination problems can be overcome.
- To specify economic analysis, decision analysis or data analysis tools which may be required in connection with NESO duties.
- To document the system. This will result in the production of a NESO Management Manual (NMM). The NMM would be in sufficient detail so that it could be used in future IEA controlled tests of the ESS.

II. NARRATIVE

Background

Under the operating procedures established by the IEA, a National Emergency Sharing Organization (NESO) is to be established in each IEA country and is to be responsible for:

- national oil emergency measures; and
- liaison with IEA on matters of international oil allocation during an emergency.

The IEA recognizes that the organization of NESOs will differ from country to country, reflecting different oil supply and political structures. On the other hand there is an expectation that the NESO will be the nexus through which government authority for domestic oil emergency management affects oil companies' domestic operations.

In the U.S., the Department of Energy functions as the NESO, although not all NESO duties are performed exclusively by DOE personnel. Other significant actors in the Federal Government who play an important role in connection with the initiation and implementation of NESO duties include the Departments of State and Justice and the Federal Trade Commission.

Method

This project involves codifying the procedures which would be followed by the Federal Government in connection with the initiation and implementation of the IEA Emergency Sharing System. Attachment A is a list of NESO duties derived from descriptions of NESO responsibilities contained in the IEA Emergency Management Manual (EMM) (the fundamental ESS operations guide). This list will be the point of departure for this work.

As with most systems development efforts, the method is cyclical: a period of investigation and analysis is followed by a period of documentation which, in turn, is followed by a period of investigation, etc. Investigations will encompass an everwidening circle of actors and activities; analyses will be pursued at ever increasing depth; and documentation will become increasingly thorough. Attachment B is a Gantt chart depicting this process.

Initially, investigations and anlyses will be limited to the literature, manuals, etc. on this topic and to discussions with persons in EP who participated in past tests of the ESS. Preliminary narratives and/or flow diagrams will be prepared. This will be followed by interviews/discussions with other DOE personnel -- in particular, IA and GC staff.

If this investigation reveals that certain activities require economic, decision or data analyses either as input or as "tools" in the performance of the activity, meetings will be held with the Scenario Development and Response Strategy Analysis Division and other analysis offices to specify these requirements. These offices would then assume the responsibility for developing the necessary analytical processes and products.

Meetings will also be held with staff members of other U.S. Agencies (i.e., outside of DOE) to further flesh out our understanding of the processes. This will primarily involve selected persons at State and Justice.

Meetings with industry representatives will take place after preliminary in-house work has been accomplished. This will enable DOE personnel to deal with industry-related questions in a focused manner.

Issues regarding the operation of the NESO (e.g., the role of DOE in general; the roles of specific DOE offices; the roles of other Agencies; the necessity for, or lack of certain data or analysis; etc.) will be resolved, to the maximum extent possible, through discussions and meetings. As necessary, workshops will be held to develop management procedures which are not routine and/or which are peculiar to NESO operations (e.g., "fair sharing"). These workshops may involve only DOE personnel or invitations could be sent to other selected U.S. Agencies. For problems which remain unresolved, issue papers will be prepared and circulated.

The documentation of each identified sub-system will be in the form of a narrative supported by descriptions of inputs and outputs and, where appropriate, flow charts. This documentation will be termed the NESO Management Manual (NMM) and will be developed in stages. It is planned that a preliminary version of the NMM will be put out in draft at the end of April.

The NMM will be expanded and revised, as appropriate, in light of discussions, meetings, workshops, etc. It is planned that a revised version of the NMM will be prepared by the beginning of July and that a draft final version will be sent forward to senior DOE management for review and comment in September.

III. MAJOR MILESTONES

1.	Draft of NESO activites outline completed	3/30
2.	Initial version NESO Management Manual draft completed	4/30
3.	Second draft of NMM completed	7/2
4.	Draft final version of NMM completed	Sept.

IV. RESOURCES

All members of International Group should be available to this project: (1) for literature review; (2) for interviews of DOE personnel; and (3) to contribute to narrative descriptions and flow charts.

Time requirements for analytical personnel are not yet determined. Travel funds may be required in connection with industry interviews.

ATTACHMENT A

DUTIES OF THE NESO

(Derived from the IEA Emergency Management Manual--3d Edition)

- To have the capability to assess accurately, and in a timely fashion, the national product supply and demand situation.
- To collect national data regarding petroleum stocks and flows, and to submit this data to the IEA Secretariat in the IEA-specified format.
- To assist in reconciling inconsistencies in the data provided to the Secretariat by both Reporting Companies and member nations.
- To identify and inform the IEA Allocation Coordinator of any large-scale oil counterflows, and to consider appropriate action.
- To assist in transmitting appropriate information, messages, etc., from the IEA Emergency Management Organization in Paris to local companies, both Reporting and Non-reporting.
- To provide, as necessary, information to the IEA's Standing Group on Emergency Questions (SEQ) representatives.
- To coordinate, in cooperation with industry, the implementation of national stock policy, refinery yield policy, and demand restraint measures.
- To coordinate the development of voluntary offers from Non-reporting Companies and to transmit such offers to the IEA.
- To examine voluntary offers and assess the implications of such offers on the domestic supply picture.
- If requested by IEA, to provide advice and comment on Reporting Company voluntary offers.
- To maintain a national data base and monitoring system which could be used to ensure that the effects of voluntary or mandatory offers made to the IEA are borne fairly among companies.
- Issue direct instructions to companies in connection with imposing mandatory international allocation.
- Within the framework of Government policy in this connection, to implement domestic reallocation procedures.

PROJECT BASELINE SCHEDULE

Project Leader: M.A. STIFFMAN

Project Title: NEIO MANAGEMENT PLAN

All Participants/Offices: DIAZ, HILL, EKIMOFF, MASUD, KERESTES & STIFFMAN/EE*

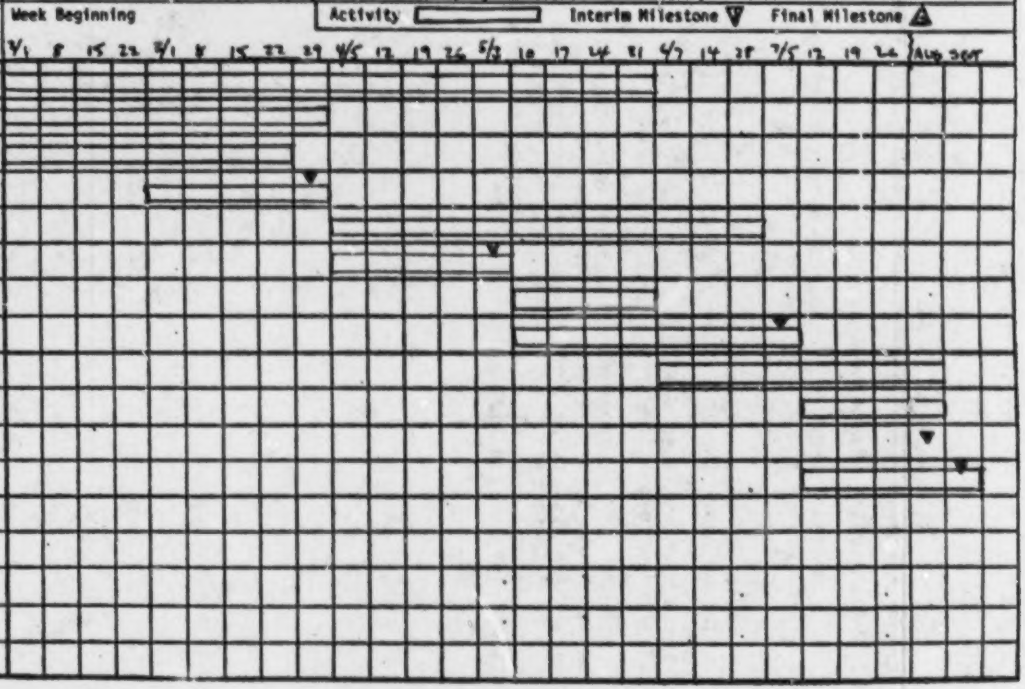
PARTICIPANTS FROM OTHER OFFICES: TO BE DETERMINED

* = FROM PLANS DEVELOPMENT & TESTING (PD&T)

Date of Chart: 4/15/82

Project Completion Date:

Activity Number	Activity Title	Participants
1	LITERATURE REVIEW	PD&T STAFF
2	INTERVIEWS WITH EP PERSONNEL INVOLVED IN [illegible] TESTS	PD&T STAFF
3	GENERAL BACKGROUND MEETINGS - OTHER [illegible] PERSONNEL RE: NEIO DUTIES	PD&T STAFF
4	PRELIMINARY OUTLINE OF NMM DEVELOPED	STIFFMAN
5	MEETINGS IN REGIONS [illegible] RE: NEIO DUTIES - FIA [illegible]	STIFFMAN
6	FIRST VERSION OF NMM	STIFFMAN
7	INTERVIEWS WITH INDUSTRY	PD&T STAFF
8	SECOND VERSION OF NMM	STIFFMAN
9	MEETINGS & WORKSHOPS RE: PROCEDURES	PD&T STAFF
10	ISSUE PAPER DEVELOPMENT	STIFFMAN
11	REVIEW OF ISSUES ETC BY [illegible]/EE	—
12	[illegible] FINAL NMM	STIFFMAN



Mitigating Impacts

Question 7: Describe in detail what the Administration is doing to develop coordinated responses among the IEA members.

In particular, describe in detail:

b. DOE's mechanism to backstop voluntary offers by U.S. oil companies should the IEA emergency system be triggered.

Answer: A fairsharing system to backstop voluntary offers is not required under the IEP. However, the International Energy Agency recommends, and the Administration has agreed, that countries should create an atmosphere to meet any requirement to share oil and share equitably any losses incurred by oil companies.

DOE has not completed its review of fairsharing options. Our review will identify barriers to voluntary offers; isolate the losses, if any, which need to be shared; and establish the need for fairsharing under the mandatory system. DOE will develop contingency plans to support the voluntary and mandatory offer systems should the U.S. ever have an allocation obligation.

IEA SUPPLY RIGHT PROJECT

DESCRIPTION

The supply right project is a survey of options such as import quotas or tariffs that the USG can implement to reduce or eliminate the likelihood that an allocation obligation would be incurred when the IEA emergency sharing system is triggered. An allocation obligation is the amount of oil above or below a country's supply right, that a country is obligated to offer to the IEA's emergency sharing system.

PRODUCTS/ESTIMATED COMPLETION DATE

- Interim products are:
  - -- An options paper containing pros and cons as well as analytical backup -- due the last week of July.
  - -- Interim action plans for each option outlining the procedures and resources needed for putting an option into a state of readiness -- due the last week of August.
- A decision memo upon which the Administration can determine a policy path, due September 1982.
- Final products will be additional or revised action plans consistent with decision memo conclusion.

ISSUES AND/OR PROBLEMS

The issue not addressed in this project is the basis upon which the Administration should implement a mechanism to reduce or eliminate an allocation obligation. Moreover, if an allocation obligation or right is incurred, the fair sharing project examines options to deal with the situation.

Mitigating Impacts

Question 7: Describe in detail what the Administration is doing to develop coordinated responses among the IEA members.

In particular, describe in detail:

c. The Administration's plans for U.S. participation in the IEA's Allocation System Test-4 in the Spring of 1983.

Answer: Plans for U.S. participation in AST-4 are under development, and will eventually be embodied in an AST-4 Exercise Guide. Completion of these plans must, of course, await final decisions by the IEA about objectives and scope of AST-4. An IEA AST-4 Design Group, chaired by David Burns of the U.S. State Department, is considering these issues. Other IEA member countries, Reporting Companies and the IEA Secretariat are represented in the Design Group, which expects to make recommendations on some of the principal issues, such as the testing of price, to the IEA Standing Group on Emergency Questions by late June for a decision.

IEA ALLOCATION SYSTEM TEST-4

DESCRIPTION

Periodically the IEA Secretariat, in concert with IEA member and the Reporting Companies (i.e., oil companies which participate directly in IEA activities and have signed the voluntary agreement on the International Energy Program), conduct an exercise of the IEA Emergency Sharing System in order to assess the operational effectiveness of the system, to train persons in the operation of the system, and to evalute the ability of IEA nations to respond to disruptions including the effects of domestic response measures on the international sharing system. These exercises are known as Allocation System Tests.

This project encompasses EP's involvement in both the planning for and execution of the IEA's fourth Allocation System Test (AST-4). Planned activities include: overall exercise design--EP is a member of the U.S. delegation to the international AST-4 Design Group; development of U.S. exercise goals and objectives--what does U.S. intend to get out of the exercise?; selection and training of U.S. exercise participants--both "players" and "test evaluators" will need to be prepared; preparation of necessary econometric models needed to simulate disruption impacts; data preparation coordination--EIA has the lead to provide exercise data but oversight is required; and arrangement for physical facilities and communication equipment required for the exercises--in coordination with DOE AS/MA.

PRODUCTS/ESTIMATED COMPLETION DATE

Various issue papers, briefing books for meetings, and like products will be required: in connection with the development of objectives and parameters of the exercise; with regard to both the international design effort and the development of U.S. exercise goals and objectives. These will be produced on an ad hoc basis as the design effort proceeds.

Draft AST-4 Test Guide -- September 1982.

ISSUES AND/OR PROBLEMS

The nature and extent of U.S. participation in the exercise are not yet settled. The extreme alternatives are: (1) use limited resources and participate in the exercise without simulating the U.S. Government response activities, and (2) perform an extensive exercise attempting to simulate most U.S. response activities and involving States. Preparation for the test depends upon this decision.

Also, all of the issues associated with the development of the U.S. NESO Management Plan affect the preparation and execution of the exercise.

Mitigating Impacts

Question 7: Describe in detail what the Administration is doing to develop coordinated responses among the IEA members.

In particular, describe in detail:

d. DOE's analysis of financial and economic impacts of energy supply disruptions.

Answer: There have been numerous studies of this issue in DOE and elsewhere. The results of these analytic efforts are documented in reports noted by the attached partial bibliography.

Attachment to 7.d.

BIBLIOGRAPHY

Deese, David A. et al, Energy and Security, A Report of Harvard's Energy and Security Research Project, Ballinger Publishing Co., 1980 Cambridge, Mass.

Hinman, Keith R., Dealing with Economic and Distributional Problems: An Emergency Rebate Program, Staff Draft Paper, Office of Policy Planning and Analysis, U.S. Department of Energy, 1981, Washington, D.C.

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ICF, Inc., Responding to Hardship From Oil Supply Disruptions: Analysis and Administrative Issues, A draft report prepared for the Office of Policy, Planning and Analysis and the Office of Emergency Preparedness U.S. Department of Energy, November, 1981, Washington, D.C.

Landsberg, Hans H. et. al, High Energy Costs: Uneven, Unfair, Unavoidable? Resources for the Future 1981, Washington, D.C.

McClain, David S., Consultant to the Council of Economic Advisers, Petroleum Emergency Preparedness Study: Macroeconomic Consequences of a Medium-Sized Oil-Supply Disruption with a Market-Based Policy Response and Tax Rebates, Overview and Status Report for the U.S. Office of Management and Budget, Department of Energy, Department of Treasury and Council of Economic Advisers, January 15, 1981, Boston, Mass.

National Petroleum Council, Emergency Preparedness for Interruption of Petroleum Imports Into the United States, April 1981, Washington, D.C.

Yergin, Daniel, ed., The Dependence Dilemma: Gasoline Consumption and American Security, Harvard University, Center for International Affairs, 1980, Cambridge, Mass.

Attachment to 7.d.

REPORTS - U.S. GOVERNMENT

U.S. Department of Energy	*Domestic and International Energy Emergency Preparedness*, Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, July 1981, Washington, D.C.
U.S. Department of Energy	*Petroleum Emergency Preparedness Study (PEPS)*, A report for the Office of Management and Budget, Council of Economic Advisors, Department of Treasury, by the Office of Energy Security Policy, Planning and Analysis, April 1981, Washington, D.C.
U.S. Department of Energy	*Allocating Scarce Petroleum Products During Oil Supply Disruptions: An Evaluation and Comparison of Four Alternative Plans*, A Preliminary Staff Draft Analysis, Office of Oil Supply Security, Policy and Evaluation, and Office of Assistant Secretary for Economic Policy, Department of the Treasury, August 26, 1980
U.S. Department of Energy	*A Report on Response Planning For A Moderate Interruption of Petroleum Imports*, An Unpublished Draft Staff Report, Office of Energy Contingency Planning, June 1981, Washington, D.C.

MITIGATING IMPACTS

Question 7: Describe in detail what the Administration is doing to develop coordinated responses among the IEA members;

In particular, describe in detail:

e. DOE's analysis of the feasibility of recycling selected revenues.

Answer: The Department has studied economic and distributional problems and associated macroeconomic consequences of an oil supply disruption, but has made no definitive analysis of the feasibility of recycling revenues. There have been a number of studies under contract to DOE concerning recycling, including:

- ICF Inc., November 1981, Responding to Hardships from Oil Supply Disruptions: Analysis and Administrative Issues.
- ICF Inc., April 1981, Mechanisms for Recycling Federal Tax Revenues to Individuals and Households In Event of a Sudden Increase In the Price of Oil.
- Three preliminary studies by the Cabot Consulting Group.

  Preliminary Assumptions: Hardship Income Redistribution Mechanisms (January 1981)

  Preliminary Report: Selected Economic Issues In Petroleum Supply Shortfalls and Tax Revenue Distribution (September 1

  Preliminary Report: Comparison of Administrative Implications of Alternate Rebate Mechanisms (November 1980)
- Finally a draft report of April 1981 by an interagency working group chaired by DOE, Petroleum Emergency Preparedness Study (PEPS).

The most notable of these studies is the April 1981 ICF Inc. report which identifies advantages and disadvantages of three revenue recycling options and assesses their feasibility for implementation. A copy of each one of the above studies is attached for your review.

(These reports are retained in the Committee files.)

Mitigating Impacts

Question 8: With regard to question 7,

a. Were these approaches approved by the Cabinet Council? If so, when? If not, will they be submitted to the Cabinet Council?

Answer: To our knowledge, these issues have not been presented to the Cabinet Council, and we have no plans to do so at this time.

Question 8: With regard to question 7,

b. Would you please supply copies of relevant background documents that would set forth the schedules and scope of these activities?

Answer: Relevant background documents include:

- Activity Summaries for:
    - NESO Management Plan
    - Supply Right Project
    - AST-4 Project
- Workplans for the above
- "Domestic and International Energy Emergency Preparedness" July 1981

Mitigating Impacts

Question 9: Describe in detail what the Administration is doing to encourage suppliers, consumers and state and local governments to develop their own contingency plans.

Answer: Revisions to the draft Emergency Public Information Plan being developed by a DOE intra-agency Task Force will emphasize both the importance of State, industry, and consumer group involvement in Federal contingency planning and the requirement for free market preparation for energy emergencies. To accomplish this, the plan will identify State, industry and consumer group concerns and capabilities regarding their planning role and information needs via working-level meetings. It will also identify a Federal role in facilitating inter-industry, State and special interest group sharing of planning information developed by Federal, State, and local governments.

To encourage States to develop contingency preparedness plans, the DOE has prepared a draft "Retrospective and Prospectus on the Problems and Options" related to public information and communication during the energy shortages of 1973 and 1979.

Information exchanges between the Federal and State Governments, and among States, local governments, private organizations and industry groups, will be critical to an accurate assessment of the dimension, and duration of an energy shortage, and will better encourage precise remedial responses among these groups and the public. Serious informational lapses and inaccuracies undermined the ability of the Federal Government in past emergencies to adequately prompt and sustain public participation in undertaking remedial measures, and our Emergency Public Information Plan seeks to redress that situation.

Developing Essential Information

Question 10: Describe in detail:

a. The DOE's public information plan.

Answer: The Department of Energy is developing an Interim and Final Emergency Public Information Plan as described below, which will revise the draft plan prepared last year. The urgency of accelerating an interim plan has precluded the coordination needed to produce a final approach. Consequently, changes in the scope and direction outlined are expected.

Description

- Interim Emergency Public Information Plan

  The Interim Emergency Public Information Plan will include public information procedures developed within the framework of DOE's existing organization and information products. The IEPIP will detail information and personnel resources and their use during energy emergencies. The IEPIP will be in force until superseded by the final plan (below), which will contain more exhaustive procedural and policy information.

- Emergency Public Information Plan

  Includes procedures to provide timely, accurate, and consistent information to the public about an energy emergency and the actions the public, State, and local Governments might take to cope with it. It will also educate the public about U.S. vulnerability to oil supply interruptions and policies and procedures for ameliorating their effects. The plan will incorporate an Operations Manual detailing data sources, target audiences, data verification methods, internal DOE procedures for data dissemination, and procedures for coordination with external agencies and associations.

  An intra-agency Task Force will develop interim and final plans. To date, members have been assessing their organization's information flow and data/analytical products appropriate for public dissemination.

- Products/Estimated Completion Date

  --Interim Emergency Public Information Plan - Early May 1982.

  --Emergency Public Information Plan - September 30, 1982.

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U.S. DEPARTMENT OF ENERGY

memorandum

DATE FEB 3 1982

REPLY TO ATTN OF EP-42
EP-43

SUBJECT Maintenance and Enhancement of the
Energy Situation Reporting System (ESRS)

TO Ronald L. Winkler

The attached proposal suggests an approach to greatly enhance the utility and value of the ESRS. The proposal envisions two parallel tracks of effort; (1) the continued operation and systematic improvement of the system report, and (2) development and use of the system by analytical teams to flag potential energy emergencies and provide option/action impacts. As algorithms for some of the analytical processes are perfected and tested, these enhancements will be added to the ESRS incrementally so that day to day operations will not be disturbed while system utility will be increased.

As a test or an algorithm is perfected by a team, we intend to add that feature to the ESRS so that system enhancements may be utilized as soon as possible. It is believed that a team approach will provide the best cross-pollinization of talent and ideas. For example, if we wish to have a "trip-wire" for air transport fuel supply, a team could consist of an aviation, petroleum, and economic expert from our staff.

We would appreciate an opportunity to present this proposal to you and obtain further direction and suggestions.

Richard E. Weiner
Acting Director
Energy Emergency Operations

Finn K. Neilsen
Acting Director
Energy Contingency Planning

Attachment

cc: Sam Bradley
Phil Layfield
Andy Drance
Glenn Coplon

ENHANCEMENT OF THE ENERGY SITUATION REPORTING SYSTEM

Purpose:

The purpose of this paper is to present specific recommendations designed to improve the analytical capability of the Energy Situation Reporting System (ESRS). This will provide DOE management with the capability of identifying potential energy emergency situations.

Background:

The ESRS, in its current form, is a data reporting system which displays historical information on electric power and fossil fuels, as well as weather information and a brief overview of the current energy supply situation. The system is updated on a daily basis, if the information is available. However, since certain data can only be obtained weekly or monthly, some data may be over 1 month old. The major advantage of the system is that it provides, in one place, a broad range of energy data needed to keep track of production, consumption, and availability of energy products. The system's utility would be enhanced greatly if the information it contains could be scientifically manipulated to determine if there is a need for further analysis by appropriate energy specialists.

As it now exists, the system, described graphically in Figure 1, consists of five subsystems:

- library and data acquisition;
- data entry and edit;
- data aggregation and statistical manipulation;
- extraction, interpretation and summarization; and
- report generation.

Each subsystem can be operated either independently or in combination with others to accomplish the primary objective of the ESRS which is

> "to provide DAS/EE and other senior government officials with a timely, accurate and current 'one-stop' overview of the national and international energy situation."

The design philosophy built into the system is based on the premise that energy expertise is and will continue to be a scarce commodity. The ESRS, therefore, is not intended to compete for available energy expertise with established missions and functions which have been assigned to individual Program Offices. Rather, the ESRS will build on presently available expertise by capturing the interpretations and pronouncements of Program Office experts in the performance of their assigned function(s) and by communicating those results to other experts. In effect, the system will perform a critical integrative function which is now largely absent to the DAS/EE ... and it will do so in a timely fashion without undue increase to staff workload. Data integration and interpretation across all energy forms will provide the DAS/EE with a truly unique energy situation report.

Discussion:

The suggested means of enhancing the ESRS is to allow the staff members of the Energy Supply Risk Assessment Branch, who have expertise in supply and distribution logistics for all energy forms, and members of the Scenario Development and Response Analysis Division who have expertise in estimating impacts which result from disruptions to normal energy supply, to formulate procedures which can serve as warning 'flags'. These warning flags should indicate whether certain combinations of circumstances exist which can produce an energy emergency. The algorithms will be used as indicators of potential emergencies or will be used to assess the probable impact of discrete events that may lead to an emergency.

The offices will also consider, as part of their analytical activity, whether it would be feasible and desirable to present and evaluate other (largely economic) data series and thereby include the capability to assess the likely impacts of available responses. The object of the entire design and development effort is to make the ESRS capable of supporting rapid "ad-hoc" analyses and providing specialized data output on demand.

Plan:

1. Operational Enhancements

Operational enhancements are required before the system can be a true vehicle for analysis by all program offices. For example, the library function of finding periodicals needs to be formalized before periodicals can be shared. In addition, further indexing and reformatting of computer files may be necessary before efficient new programs can be written. This can be done in parallel with the analytical enhancements to some degree, but some time needs to be spent smoothing out the existing procedures for generating the report. The system as it exists will be kept operational and enhancements added as they are perfected.

2. Analytical Enhancements

The first step will be to disseminate the present report so that the analysts will become aware of what is currently in the system. Then suggestions will be collected from the analysts for enhancements. For example, these suggestions can include new or improved tables, quantitative measures such as indices, and new data. Once the suggestions have been collected, they will be considered and, where feasible and appropriate, the necessary system changes will be proposed to management.

The following is an example of what we hope to achieve. The current report has a number of historical tables. A single table could be generated showing the current status for those data elements using the latest data available, compared with data from the relevant previous period. Such a table could include a "flag" column, which might be generated from the computer or noted directly by the observation of the staff analysts. These tables could be tied to a parallel set of current "projections" that would be continuously updated based on current data. The "projections" may or may not be based on formal modelling techniques, but could serve as a vehicle for quantifying impacts once a "flag" is generated in the current data. Management could also use these procedures to create exercises that would test the analytic ability of the system.

It is important to remember that this will be an interactive system, which will permit improvements in the methodology as knowledge is gained or the energy situation changes.

One of the areas of primary focus will be to avoid false signals which could be generated by an automated process. To the extent that assessments can be safely automated, staff resources can be allocated to other enhancement tasks which may require subjective judgments. On the other hand, if false conclusions are possible without necessary professional interpretation, automation of the particular assessment should be avoided.

Resources:

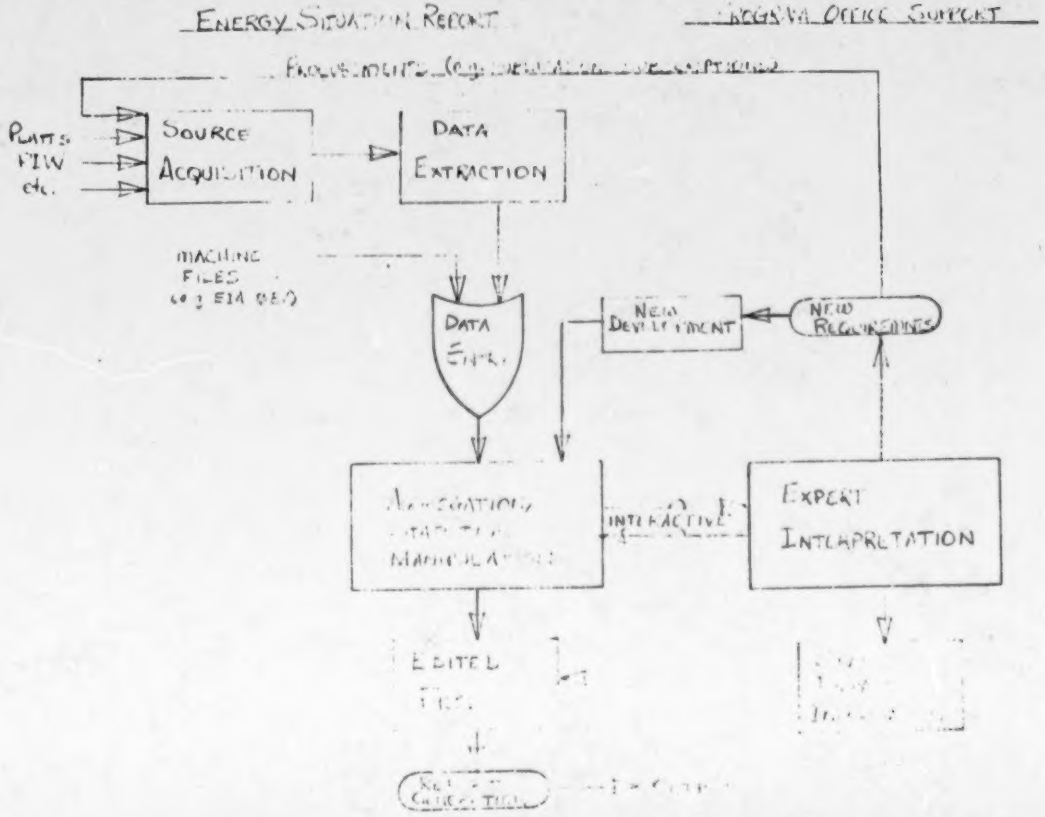
It is estimated that at least three members (each) from the Office of Energy Contingency Planning and the Supply Risk Assessment Branch will be occupied full-time for a period of not less than three months to prepare a comprehensive design specification proposal for consideration by management. More staff may be required if viable suggestions for enhancement appear that they could lead to beneficial additions to ESRS.

Schedule:

The design specification document will suggest what should be done by (and to) the ESRS and how it should be done. Progress reports will be provided every two weeks which will describe work done during that reporting period and the partial enhancements which would be represented by that work. However, the full impact on the entire system would not be available for three months and should be considered only as a proposal to management for design enhancement. Implementation of those elements approved by management can then begin, but may take considerably longer than the proposed three months.

FIGURE 1

ENERGY SITUATION REPORTING SYSTEM


ENERGY SITUATION REPORT
REGIONAL OFFICE SUPPORT
PROCUREMENTS (e.g.
PLATTS
FTW
etc.
SOURCE ACQUISITION
DATA EXTRACTION
MACHINE FILES (e.g. EIA
DATA ENTRY
NEW DEVELOPMENT
NEW REQUIREMENTS
AGGREGATION STATISTICAL MANIPULATION
INTERACTIVE
EXPERT INTERPRETATION
EDITED FILES
CORRECTION

EMERGENCY PUBLIC INFORMATION PROGRAM

A RETROSPECTIVE AND PROSPECTUS OF PROBLEMS AND OPTIONS

OFFICE OF
ENERGY CONTINGENCY PLANNING

ENVIRONMENTAL PROTECTION, SAFETY,
AND EMERGENCY PREPAREDNESS

APRIL 1, 1982

DRAFT

EMERGENCY PUBLIC INFORMATION PROGRAM

A RETROSPECTIVE AND PROSPECTUS OF PROBLEMS AND OPTIONS

INTRODUCTION

The Department of Energy (DOE) is currently examining the many issues involved in the development of an Emergency Public Information Program (EPIP). In defining the preliminary issues, we have drawn upon studies of the 1973-74 and 1978-79 oil shortages developed both independently and under DOE contract. These analyses identified serious errors or inconsistencies in Federal public information actions taken during these crises which had the unintended effect of either creating or exacerbating public concern regarding supply disruptions, and impeded the public's ability to understand and effect remedies to those crises.

Since then, substantive changes in proposed Government methods for dealing with energy shortages strongly underscore the need for vigorous and improved educational programs to inform the public of those changes--both prior to and during the course of an emergency condition. The lack of such information could reinvite the mistakes of the past and lead to unrealistic expectations of Government intervention by those whose energy supplies or market shares were protected in past emergencies.

The current policy of the Department of Energy is to "reduce barriers . . . in the market place,"1/ rather than to respond to emergencies with regulations which impede the adjustment of the economy to new market conditions and impose artificial constraints which make the final form of that adjustment economically unsound.

The development of an effective public information plan is heavily dependent upon a strong State role both in plan development and implementation. This document has been developed to encourage internal DOE, Federal, and State discussion and involvement in the early stages of public information planning by succinctly summarizing the issues raised in selected studies, and soliciting early comment on how an Emergency Public Information Program might be crafted to successfully address those issues in future emergencies.

Section I of this report discusses the types of problems experienced during prior supply disruptions, while Section II highlights those issues or proposals which require further discussion and analysis. The discussion following each issue represents only an initial finding which should be examined in developing a conceptual framework for a public information program. It is hoped that further issues and remedial options will surface as a result of State reviews of this document, and enable a broader State/Federal public information coordination and developmental role.

Section V is a questionnaire which provides a format for responding to the issues raised in Section II, in addition to eliciting more specific information in regard to each State's public information interests, resources, and concerns.

SECTION I

FEDERAL PUBLIC ENERGY INFORMATION PROGRAMS: THE PROBLEMS OF THE PAST

During the two major shortages of petroleum products of the past decade, the source for more than half of all news stories dealing with the cause, extent, or possible solutions of the crises was the Federal Government.2/ Such attention from the news media provided the Government an exceptional opportunity to educate the public on the dimensions, duration, and depth of the crises, and inform them of Federal actions being taken to ameliorate their economic and social impacts. Several analyses of the effect of the Federal public information efforts undertaken during these crises, however, indicate that the Government did not take full advantage of that opportunity.

An essential part of dealing with an energy shortage, the Federal Government public information program can perform two important functions.

-- Provide information the consumer requires to make a rational decision concerning long term energy planning, thereby assisting the expeditious functioning of the free market system during the adjustment to the shortage.

-- Educate the public about the nature and causes of the situation, stimulate local and individual remedies and adjustments, and build a consensus to support Federal and State plans of action developed to deal with the emergency.

The execution of the first function requires the dissemination of information about the probable extent of the shortage and its impact on prices and the availability of fuels. It depends heavily on the accuracy and consistency of the information being disseminated, since inaccurate information damages the action of the market by misleading decisionmakers and consumers, while inconsistent information serves only to confuse the public and lessen the credibility of Federal or State programs or pronouncements. The execution of the second function requires the organized dissemination of a demonstrably practicable plan for dealing with the shortage, together with a clear and apparent rationale for its approach and implementation.

A cursory review of the public information programs undertaken by the Federal Energy Administration (FEA) during the 1973-74 oil embargo and by DOE during the 1979-80 Iranian oil shortage, demonstrates how these critical criteria were not met in coping with those emergencies.

FEA PUBLIC INFORMATION PROGRAM 1973-1974

When the embargo of crude oil sales to the United States first began, only a limited amount of information was being collected on the supply, price, and sale of oil and petroleum products. The data that were collected were not timely, were not validated, and were frequently supplied to the Government by the energy industry on a voluntary basis. This placed FEA (DOE's immediate prodecessor) in the position of relying on the unverified data provided by the oil industry in its efforts to convince the American public that there was in fact a shortage of oil. That fact was not obvious to much of the public, which believed that the crisis was an invention of the major oil companies.3/

To compound the problems created by the lack of verified data, no single voice spoke for the Federal Government with regard to the dimensions of the shortage or the steps being taken to remedy it, and the statements of one official often differed from or conflicted with those of another.4/ This lack of consistent and credible information and leadership led to confusion, a sense that the Government had no ready or coherent remedy, and public fears that gasoline would be unavailable for essential travel. It contributed to panic buying and hoarding. In summary:

> "In 1973-74, the public was not convinced that the Federal, State and local officials either knew what supplies were available or were acting to ensure equitable distribution. The apprehension generated by those doubts resulted in panic buying, long queues, gasoline waste, and a temporary surge in demand."5/

In 1973, it was perhaps unrealistic to expect that the Federal establishment, faced by an unexpected crisis of major proportions and great political and economic impacts, would respond instantaneously with a carefully coordinated program of public information. By the shortage of 1979, however, six years later, the lessons of 1973 should have resulted in an effective and immediately available program for gathering and disseminating data essential to the public. To a disappointing degree, that proved not to be the case.

DOE PUBLIC INFORMATION PROGRAM 1979-1980

When the petroleum supply disruption caused by the Iranian revolution occurred in 1979, the DOE had been existence for over a year and many of the deficiencies in the Federal Government's energy data collection systems had been remedied. There was an emergency reporting system in place to provide weekly data on petroleum and petroleum product supply, demand, and price, as well as an historical data base against which to make comparisons. In these terms the Government was much better prepared than it had been six years before to provide the public with credible energy data.

Subsequent events indicated that serious problems remained, nonetheless, in the Government's ability to inform the public on the scope of the shortage in a coherent, coordinated, and accurate fashion. The following abbreviated chronology of Federal public information actions during the first seven months of the supply interruption may be instructive.6/

1/2/79	The State Department briefed the press on the Iranian situation and indicated that there was no reason to fear a petroleum shortage or price rises.
1/3/79	The Secretary of Energy announced that the situation was "serious but not critical" and quite manageable if the public took simple conservation actions. He further announced the delay of gasoline price decontrol.
1/7/79	The Secretary, in a television interview, predicted the possibility of allocations if the interruption continued into the summer. He also predicted gasoline prices of 6-7 cents per gallon by the end of the year, but focused on long-term energy problems and the need for long-term solutions.
1/11/79	The Economic Regulatory Administration (ERA), despite the Secretary's focus on long-term remedial measures, announced standby crude oil allocation and pricing regulations.

1/16/79	The Secretary appealed directly to State and local Government and industry leaders to implement voluntary energy conservation measures (and lists 26 candidate actions).
1/17/79	ERA reinstated the State set-aside program for middle distillates, but made participation voluntary.
2/8/79	The Secretary was quoted as saying that the Iranian disruption could be more serious than the 1973-74 embargo in terms of the amount of oil lost.
2/13/79	The President appeals for voluntary energy conservation in a press conference. (Many press articles suggest he is more optimistic about the import of the Iranian interruption than is the Secretary.)
2/14/79	ERA asks motorists to report price control violations.
2/22/79	ERA activates a portion of the standby regulations.
2/27/79	DOE's Petroleum Demand Watch reported crude oil imports for the previous four weeks were actually 11.8 percent greater than those of the same four week period in 1978. Despite this, and Presidential emphasis on voluntary conservation actions, DOE announces that it will petition the Congress to approve three emergency mandatory conservation plans banning weekend motor gasoline sales, and establishing restrictions on building temperatures and outdoor advertising lighting.
3/7/79	DOE issued a background paper to the press stating that energy shortages might become critical, and could require the imposition of mandatory conservation measures.
3/16/79	DOE announces installation of a temporary drawdown system for the strategic petroleum reserve.
3/22/79	DOE launches an outdoor advertising campaign to conserve motor gasoline.

3/26/79	The Demand Watch showed crude oil imports 12.9 percent above 1978, and gasoline use 7.3 percent above 1978 for the previous four weeks.
4/3/79	ERA urges 12 refiners to provide distillate for priority users.
4/5/79	A televised speech by President Carter addressed the energy problem as a critical national priority, but again focuses primarily on long-term problems and solutions. (Press coverage focuses on his decontrol and windfall profits tax proposals, with passing reference to immediate short-term actions which could be taken.)
4/13/79	ERA proposes to allow States to use set-aside supplies for retail stations.
4/17/79	ERA urges supplies to meet primary distillate needs, especially for agriculture and spring planting.
4/23/79	DOE announced a new advertising campaign to encourage voluntary conservation.
5/1/79	The Demand Watch reported crude oil imports 10.6 percent above 1978 for the previous four weeks.
5/5/79	DOE receives 500 complaints daily on oil prices.
5/7/79	The President orders a DOE study on the causes of gasoline lines after witnessing these in California.
5/11/79	ERA issues special rule to allocate distillates for agriculture use.
5/13/79	The President meets oil industry leaders to query them on the causes of increased oil prices and resistance to stock drawdowns.
5/25/79	ERA extends allocation order to agriculture trucking, mass transportation, and production of oil and gas.
6/7/79	The American Automobile Association warns of the longest gasoline lines of period. Lines lasted over a month in Washington, D.C.

6/7/79 The Secretary holds a press conference to predict increased crude oil imports in the coming weeks, and state his expectation that the situation will improve. In press conferences of 6-14-79 and 6-21-79, questions focus on the failure of the Government to order stock drawdowns.

7/9/79 ERA issues statement that the situation is easing. At the same time, a memorandum to the President from his Domestic Advisor, Stuart Eisenstadt, gains wide press circulation. It recounts the problems experienced in dealing with the crisis and recommends means for countering OPEC control.

7/10/79 The President imposes mandatory building temperature restrictions.

7/15/79 The President announces a new energy program, again focusing on long-term remedial measures--especially synfuels development.

This chronology, together with the findings of the studies surveyed, suggests the following serious problems:

-- There was no single recognized Federal source of data about the energy situation. This contributed to a lack of consistency in Government positions.

-- The predictions about the future dimensions of the crisis escalated wildly from "no reason to fear a petroleum shortage or price rises" on January 3, 1979, to "the possibility of allocations" on January 7, 1979, and the chance that this shortage "could be more serious than the 1973-74 embargo" by February 8, 1979. Such an escalation suggested a lack of knowledge of the problem, and tended to undermine public confidence in the ability of the Government to deal with it.

-- The amount of oil actually being imported remained above the amount imported in 1978 during the period covered. No attempt was made to explain this discrepancy, thus providing a fertile source for public fears of a "manufactured" shortage.

In addition to the public information efforts of the DOE and other Federal Agencies, information was available to the public from other sources through the news media. Such information tended to focus on the role of the oil companies in causing or compounding the shortage, and to place them in an adversary role vis-a-vis the people of the United States. Beyond this, the general tone of the public debate was shaped by the fact that almost all reportage of possible solutions to the crisis focused on regulatory rather than market mechanisms.7/ The DOE did little to indicate that at least some of the causes of price increases were legitimate market responses to the reduced probability of regular supplies, nor did it indicate that industry stockpiling represented a legitimate economic response to the same situation. This led to a lack of public acceptance of price increases, of voluntary conservation efforts, and to a lack of acceptance of the existence of an actual shortage.8/ All this in spite of the fact that the Government remained a major source of information for the news media.

In summary, although there was a great deal more information available to the Government to explain, or at least describe, the supply disruption of 1979, that information was not distributed to the public in an organized, consistent, or credible manner. There did not appear to be a consensus within the Federal Government about either the extent of the emergency or the means for dealing with it. Further, there did not appear to be any unified or centrally-administered plan for informing the public about their best possible courses of remedial action during the emergency. As a result, the actions of the Government may again have contributed to a sense of uncertainty and concern that led to the formation of gasoline lines and increased short term demand, and created a forceful and skeptical "adversary" within the media which further diminished the effectiveness of Federal pronouncements and their impact on public receptivity.

SECTION II

PUBLIC INFORMATION ISSUES AND OPTIONS

The DOE is currently reviewing public information options with the primary goal of developing a plan to alleviate the communications problems experienced during past energy shortage emergencies. The objectives of the plan include educating consumers regarding the potential for energy emergencies and the limited potential for Government intervention in the energy market, encouraging free market preparation for and response to energy emergencies, and providing the public with information that is accurate, consistent, and useful for decision-making by both Government and consumers during energy emergencies. Achievement of these goals will require extensive coordination among Federal and State Governments, and among industry and consumer representatives. The following briefly discusses the issues raised in existing studies of past supply disruptions in order to provide a basis for beginning discussions of public information options for internal DOE and State review.

The Need for General Education Efforts Prior to the Dissemination of Emergency Information

Analyses of past petroleum disruptions have indicated that there was and continues to be a "lack of public knowledge of the U.S. and world petroleum situation with apparently less than 50 percent of adult Americans aware of the U.S. dependence on the world oil market."9/ Additionally, available data indicate a low public awareness of Government policies related to energy.10/ This lack of basic information raises issues that will affect the success of any emergency information plan.

- Are there effective ways, perhaps through joint efforts of the Federal Government, State Governments, and industry and consumer groups to increase consumer knowledge of Federal policies and the way in which energy markets function?

- To what extent is the public "immune" to such efforts in the absence of an emergency?

General information regarding energy would tend to be a low priority for both consumers and the media due to larger economic issues and the currently perceived "oil glut." With statistics showing limited public awareness of Government energy policies even during emergencies, the potential for general education under existing favorable energy conditions also appears limited. In any case, such information would have to be carefully formatted and the audience carefully targeted if it were to achieve an effective level of communication and response under current conditions. It must also include realistic assessments of the impacts of the free market approach and/or the way in which specific user groups are likely to be affected.

- To what degree are consumers likely to be aware of the shift from a controlled market to the free market approach?

Media Institute data indicate that TV coverage during the 1973-1974 and 1978-1979 supply disruptions emphasized non-market solutions, such as rationing and price controls, to a far greater extent than market solutions.11/ It would be reasonable for large segments of the public to continue to think in controlled-market terms and to expect market controls to be called upon again to cope with future disruptions. This becomes an important issue in light of the Government's goal of encouraging early pre-planning and free market responses to emergencies.

- Should pre-emergency public information/education be limited to those areas in which consumers have options?

A criticism of past DOE public information efforts cited information released regarding the distillate stock buildup program. In 1979, DOE emphasized the importance of building primary distillate stock levels and set a target amount to be achieved as a means of assuring the public that actions were being taken to avoid distillate supply shortages. The stock buildup program was a major element of the Iranian Response Plan and was highlighted in Presidential statements. Ultimately, the DOE found the target amounts to be too high, but consumers became concerned that the Government was unable to reach the goal. From this experience, it was concluded that programs over which the general public has little or no control should be publicized only if there is widespread apprehension among consumers, and if there is a strong Government commitment to meeting the publicized goal.12/ This raises serious issues regarding the value of public education efforts in such program areas as the Strategic Petroleum Reserves and the International Energy Agency programs, areas in which the public has little control. On the other hand, in a severe shortage, the public may readily demand drawdown of the SPR as an (apparently) easy means for redressing the shortage. It may also resist execution of U.S. IEA commitments, once it is realized that this will mean even less in the way of energy supplies for domestic consumption.

Definition of Target Audiences

The traditional approach to identifying "target audiences" has generally been used in DOE public information efforts. Such target audiences might include:13/

Congress
State and local Governments
Opinion leaders (business, industry, civic)
News Media
Trade Associations
Civic, community organizations
Special interest groups (Farmers, union, tourism)
The international community
The financial community
Business/commercial firms

  Small business
  Retail business
  Building owners

Industrial firms

  Energy industry
  Trucking industry
  Transportation manufacturers
  Building industry
  Petrochemical industry
  Primary energy-intensive industries

Consumers (Drivers, Homeowners)

- Are traditional definitions of target audiences useful or does the change to a free market strategy require new identification?

The types of target audiences identified for general education efforts vary considerably with the type of response desired. In light of the Governmental goal of encouraging free market responses to all but the most extreme supply disruptions, target audiences could be defined in terms of, (1) audience ability to utilize free market responses to remedy a crisis (which implies a familiarity with and commitment to free market principles), and/or (2) those who are least likely to understand or be aware of the free market approach, were previously "protected" by regulation, or expect a return to the controlled market in emergency situations, and are, therefore, unable or unwilling to pre-plan due to faulty perceptions of current energy policies. The former audience, which generally supports the Administration's free-market principles, would tend to be the most interested in effective ways to proceed with emergency preparedness planning, while the concerns of the latter may focus on what constitutes a free market policy and how such a policy would affect them in emergencies.

The traditional target group definitions are generally more applicable to emergency information dissemination, in which the objective should be on the dissemination of the highly accurate information for decision-making at all consumer levels.

Identification of Information to be Disseminated

General Information Identification: The following major topic areas have been initially identified as the basis for general public education efforts:

-- The potential for energy emergencies,

-- U.S. dependence on the world oil market,

-- Free market rationale and benefits to the U.S.,

-- The inappropriateness of direct Federal involvement in all but the most extreme emergencies, and

-- Long and short-term voluntary demand restraint measures available to mitigate the adverse effects of shortages.

Information on these topics, some of which has already been developed by DOE, could be incorporated into existing State or industry/ consumer information dissemination programs, especially those which place the greatest emphasis on reaching target audiences most able to benefit from and utilize the information.

- Should information regarding broader contingency plans for implementation in extreme situations be included in a general information plan?

The value of more specific educational information, such as that relating to Strategic Petroleum Reserves, International Energy Agency Programs, or the Defense Production Act, should also be examined. As previously noted, past experience has shown that information on programs over which the general public has little or no control has tended to generate apprehension and detract attention from actions which could be taken by individuals. The programs which could be implemented in severe disruptions also tend to be complex and, as a result, may not be suitable for general public education efforts. This type of information could be limited to industry and trade group dissemination for utilization in longer term planning. This, however, should be examined in regard to individual State analyses of program impacts and target audience information needs.

Emergency Information Identification: Analyses of public information programs during the 1973-1974 and 1978-1979 "oil crises" cited a number of public information actions which contributed to public confusion and suggested ways in which improvements could be made for future information-servicing efforts. While the types of problems encountered were discussed in detail in Section I, many related specifically to either the types of information disseminated or the lack of information available. It is generally agreed that the early goals of an emergency information plan should include: (1) a clear description of the events causing the emergency situation and their immediate impact, (2) a prediction of the duration and intensity of the emergency to assist the public in making decisions to minimize the adverse effects, and (3) guidance on voluntary options available to the public. The ways in which these can be achieved vary considerably.

Resource Planning Associates (RPA) concluded that the lack of a concise, accurate, and early prediction about the severity and duration of the 1979 shortage led to panic buying and increased long queues.14/

- How can a consistent means of providing early predictions of supply disruption duration and impact be developed?

- On what should predictions be based and how can public acceptance be enhanced?

During past supply disruptions, the lack of timeliness and accuracy in predicting the amount of supply reductions and price increases contributed markedly to the lack of credibility for subsequent Government actions and resulted in little or no immediate action by consumers to alter their consumption patterns.15/ A variety of methodologies and data bases were used with minimal or no explanations of differences made available to the public. Predictions also tended to place too little emphasis on world oil data. "The excessive focus on U.S. data by U.S. consumers, suppliers, and Government officials resulted in overly optimistic predictions in the first months of 1979 and overly pessimistic predictions in the late spring and summer of 1979."16/ These problems could be partially alleviated by the pre-emergency establishment of organizational responsibilities for the development and maintenance of data required and identification of precise methodologies for ascertaining the impact of supply disruptions.

- Should predictions also include a "worst-case" analysis?

In addition to predictions of probable outcome, it has been proposed 17/ that a "worst-case" analysis be developed to provide the extreme case against which consumers could plan. While great care should be taken to indicate that the analysis represented the most pessimistic scenario, it could also provide a broader base for decision-making. This could be particularly useful in dealing with smaller disruptions by demonstrating to the consumer that there are effective mitigating actions which can be taken even if conditions prove worse than expected.

- What continuing data should be made available to specific target groups?

Both the RPA and Hystad Associates studies of information needs during an emergency stressed the need for establishing a functioning, continuing emergency data reporting system prior to the existence of an emergency. They noted that data provided the public should be of a consistent format and that definitions should be drawn from verified sources, with no attempts to establish new systems or change definitions during a disruption. An effective data system would also have available varying formats and levels of complexity for supplying information to pre-defined target audiences. Detailed supply, demand, and price data are of minimal use to the general public but should, for example, be provided to State analysts on a continuing basis. RPA cited the lack of accurate local and regional information from Federal, State, or media sources, but found successful ad hoc systems devised by private associations or individuals.18/ These types of capabilities should be examined as a part of the plan development effort to ensure their existence for emergency use. Very little information was found on local and State capabilities and this issue will require extensive coordination among Federal, State, industry and consumer representatives to devise the best means of providing emergency information to the individual consumer.

Expansion of State, Industry, and Consumer Group Roles in Public and Emergency Information Dissemination

While there has not been extensive analysis of the information exchange mechanisms in existence between the State and Federal Governments during supply disruptions, a major goal of the public information plan will be enhancement of a formal and direct information exchange network. The States have undoubtedly been subject to the same public information problems outlined in Section I. Because the Administration is currently looking to the States to assume more responsibility for programs currently being administered by the Federal Government, the States can be expected to play a greatly expanded role in public information in the future.

- What types of linkages should exist between Federal and State Government?

- How can communication channels be firmly established prior to an emergency situation?

- How do States view their role in disseminating information both prior to and during emergencies?

- What State capabilities currently exist in support of public information plan development and implementation?

- How can industry and consumer groups best be utilized?

Through State comments to this document and the accompanying questionnaire, the Federal Government and the States can together begin to redefine and expand their roles in planning and implementing emergency information programs and interacting for both communication and decision-making purposes.

Establishing a Single Spokesman Concept for Release of Emergency Information to the Public

As discussed in Section I, a major criticism of Government information efforts during the 1973-1974 and 1978-1979 supply disruptions was the contradictory and confusing nature of Federal statements released to the public. Conflicting information was often generated from multiple inter and intra-Departmental sources and, as a result, greatly reduced Government credibility. Attempts to explain or interperet information also came from a number of sources, with few of these perceived by the public as totally objective. Often, the lack of an "objective" designated spokesman, or a consistent effort to explain information provided by DOE, was interpreted by the public as an attempt to manipulate or distort information for policy purposes. Longer-term or broader policy statements issued during emergencies had a similarly confusing effect, and did little to prepare or stimulate the public to take short-term remedial measures.

- How can information released during emergency situations be coordinated to assure a consistent and objective Federal response?

- How can State information offices be incorporated into the system to allow a coordinated Federal/State posture?

Conclusions

The preceding issues represent concerns which are basic to the development of a conceptual framework for an Emergency Public Information Plan (EPIP). The comments and suggestions received will be instrumental in expanding the options for consideration, and defining an early State role in plan development. To further assess State concerns, resources, and capabilities, we have included a questionnaire as Section V of this document. It both establishes a format for responding to issues raised above, and raises more specific questions regarding individual State public information experiences and interests.

SECTION III

FOOTNOTES

1/ Preliminary Analysis of Federal Emergency Preparedness Strategies: The EPAA Experience and Current Programs at the Department of Energy (Staff Report of Office of Energy Emergencies, DOE, March 23, 1982) p. 27.

2/ The Media Institute, TV Coverage of the Oil Crises: How Well Was the Public Served?, ed. Leonard J. Theberge (Washington, D.C.: The Media Institute, 1982), Vol. I, p. 9.

3/ Resource Planning Associates, Policies to Manage Gasoline Consumption During a Shortage and Their Effect on Retail Gasoline Queues (Final Report, February 23, 1979), p. 2.1.

4/ Ibid., p. 2.1.

5/ Ibid., p. 2.2.

6/ Hystad & Associates, A Plan for Public Information Efforts During Petroleum Supply Emergencies (Preliminary Analysis, September 30, 1981), pp. 6-10.

7/ Media Institute, p. 24.

8/ Hystad & Associates, p. 12.

9/ Ibid., p. 12.

10/ Margaret Sibley, External Communications Plan (Appendix E to unpublished Report on Response for a Moderate Interruption of Petroleum Imports, Staff Report of Office of Energy Contingency Planning, DOE, June 1981) p. 6.

11/ Media Institute, p. 13.

12/ Hystad & Associates, Analysis of Public Information Efforts Regarding Distillate Stocks (October 22, 1981), p. 2.

13/ Margaret Sibley, Appendix E, Tab A.

14/ Resource Planning Associates, p. 2.2.

15/ Hystad & Associates, World Oil Market Data for a Public Information Program (Report prepared for DOE, December 3, 1981), pp. 1-3.

16/ Hystad & Associates, World Oil Market Data for a Public Information Program (Report prepared for DOE, December 3, 1981), p. 3.

17/ Hystad & Associates, Analysis of Public Information Efforts Regarding Distillate Stocks (October 22, 1981), p. 5.

18/ Resource Planning Associates, p. 2.5.

SECTION IV

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Battelle Pacific Northwest Laboratories, Study of 1979 Gasoline Shortage, (Unpublished Report prepared for the Office of Energy Contingency Planning, DOE, March 1980)

Massachusetts Institute of Technology, Center for Transportation Studies, Demand Reduction Potential for a Public Information Plan, Technical Appendix & Appendix B (Report prepared for the DOE under contract GX-76-A-01-2295)

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Hystad & Associates, Analysis of Public Information Efforts Regarding Distillate Stocks (Unpublished Preliminary Analysis, September 30, 1981)

Preliminary Analysis of Federal Energy Emergency Preparedness Strategies: The EPAA Experience and Current Programs at the Department of Energy, (Unpublished Staff Report of the Office of Energy Emergencies, DOE, March 23, 1982)

Hystad & Associates, World Oil Market Data for a Public Information Program (Unpublished Report prepared by the Office of Energy Emergencies, DOE, December 3, 1981)

SECTION V

PUBLIC INFORMATION PROGRAM QUESTIONNAIRE

The following questions are asked to obtain your impressions on the issues raised in Section II and to elicit your ideas about the role of the States vis-a-vis the Federal Government in informing the public about energy issues. Prior to completing the following questionnaire, please fill in the name and address of the State official to be contacted on energy information matters.

NAME_______________________________________

TELEPHONE NO.______________________________

MAILING ADDRESS____________________________

____

____

PART 1. PUBLIC INFORMATION ISSUES

ISSUE A. The Need for General Education Efforts Prior to Emergency Information Dissemination.

Q.(A1) How sophisticated do you feel the general public and small businessmen in your State are about the U.S. energy situation? Do you feel that they are aware of U.S. dependence on imported oil and the possibility of another shortage of imports?

Q.(A2) What is your perception of public expectations in regard to Government actions in any future energy shortage? Do you feel that the public in general and businessmen in particular are aware of the new "non-interventionist" policies of the DOE and the shift to a free market approach?

Q.(A3) How effective do you feel that a program to educate consumers on energy issues can be in the absence of a shortage?

Q.(A4) How would you suggest approaching a general education program about energy issues in your State? Would industry/trade associations participate? What would be the response of local media?

ISSUE B. Are Traditional Definitions of Target Audiences Useful or Does the Change to a Free Market Strategy Require New Identification?

Q.(B1) Do you feel that we should target those consumers who were most protected by allocation/pricing regulations for a "re-education" program? What are the general categories of consumers that you recommend for such a program?

Q.(B2) How do you believe that we should define target audiences during an emergency? Who would most need to be aware of the problem and the proposed Government response?

ISSUE C. **What Specific Items of Information Should be Included In a Public Information Plan?**

Q.(C1) Do you feel that business/consumers in your State would benefit from the dissemination of specific DOE plans for dealing with energy emergencies?

Q.(C2) Would the dissemination of world oil market information be useful to consumers and businesses in your State?

Q.(C3) What sort of predictions and analyses of the possible impacts, depth, and duration of an energy shortage do you think the DOE should provide?

Q.(C4) In general, what specific State/regional data on petroleum products would you find useful in a shortage situation? What data do you now have available?

Q.(C5) What non-Governmental sources of regional data have you used in past emergencies? What data have you obtained from these sources?

ISSUE D. Establishment of Expert Sources of Data During an Emergency.

Q.(D1) What Federal Government data sources have you found most useful during past energy emergencies? What data have you obtained from these sources?

Q.(D2) How do you believe we could best improve the communications between the Federal Government and the States on energy matters?

PART 2. THE ROLE OF THE STATES IN PUBLIC INFORMATION

Q.(1) What specific role should your State play in informing the public about energy matters prior to and during an emergency?

Q.(2) Does your State Energy Office have the resources to participate in a public education program at this time? To what extent could you participate?

Q.(3) Do you wish to participate in joint public information planning sessions with the DOE?

Q.(4) Would you participate in targeting selected audiences (industries, professional/Trade associations, etc.) and disseminating critical data to them in an emergency?

Developing Essential Information

Question 10: Describe in detail:

b. What the Administration is doing to facilitate effective communication during an oil supply crisis.

Answer: To facilitate effective communication during an oil supply crisis, DOE has instituted several programs described below:

-- The Emergency Operations Center in Germantown maintains an Alert Coordinating System for the Office of Energy Emergencies as well as the Federal Energy Regulatory Commission. The Office of Energy Emergencies maintains an Alert Coordinating Officer (ACO) around the clock who can be called at the DOE Emergency Operations Center, 301-353-5555 or through a special emergency number, 202-252-5161. To facilitate broader use, these numbers will soon be published in the Federal Register.

-- An emergency contacts network directory. Of key officials and primary contacts for all federal agencies; Governors' offices, energy offices, public utility commissions, and civil defense offices. Under development is a directory of key industry contacts, by sector.

-- A task force to develop standard operating procedures and suitable facilities to manage energy emergencies.

Other Departmental activities include:

-- Evaluating the need for improvemens to the telecommunications links to all state energy offices, state emergency operations or disaster control centers, DOE regional operations offices, and appropriate outside organizations.

-- Enhancing existing communication systems (a detailed explanation is provided under Question 10.e.). Under examination are system redundancy features to assure uninterrupted communications during emergencies.

-- Developing a public information plan with prepackaged materials suitable for use during energy emergencies (a detailed explanation is provided under Question 10.a.).

-- Forming regional coordinating councils of state, local and industry officials who can facilitate emergency planning and implementation within geographical areas. Under consideration is a pilot project in the Western region to include states within Petroleum District Administration for Defense (PADD) V.

Developing Essential Information

Question 10: Describe in detail:

c. The DOE's daily energy situation report.

Answer:

Background

The Energy Situation Reporting System includes the Energy Situation Report, and a supporting data base called "Tables." The Energy Situation Report is a daily report used mainly as the core of an on-line computerized reporting system. It highlights recent events affecting U.S. energy supply availability, data on energy supply and demand, and items which may develop into future problems.

It includes: (1) Highlights and Early Warning Items, and (2) Background Information. The latter section has separate subsections with current general information on crude oil petroleum products, natural gas, coal and other solid fuels, electric power, weather trends and forecasts, and special topics as noted in individual items in the Highlights and Early Warning section.

Additional background data are available on the "Table" system, derived from government and non-government sources.

At this stage the Energy Situation Report serves mainly to collate and highlight essential energy data on a timely basis. In future stages of its development, ESRS will be connected with more detailed historical data and with the extensive on-line consolidated publication files under development in EIA. We will enhance the collating function by more analytical work as we improve our modelling and analytical capabilities to draw information from EP, IA and EIA data bases.

The daily production of the Energy Situation Report and the availability of other background material through the "Table" system, are the current products of the activity.

Purpose and Origin

The Energy Situation Reporting System (ESRS) provides the Deputy Assistant Secretary for Energy Emergencies (DAS/EE) an accurate and current daily overview of the national and international energy situation. He may use this report to identify trends and spot a potential energy problem. The ESRS report is an early alert information system and is intended to become a trip-wire, indicating the need for additional investigation and possible initiation of contingency programs.

Question 10.c. Cont'd

The report was put on to the computer and made available to the DAS, EE about the first of December 1981. However, since the ESRS is under development, we are improving the format of the daily report and enhancing the system by giving it improved analytical capabilities, and access to additional detailed background material.

In addition the ESRS report will provide timely information on the worldwide energy situation to other DOE senior officials for use in developing and administering policies and programs. In short, the ESRS report will keep the user abreast of significant energy developments, particularly those posing major consequences for U.S. energy supplies, demand, and prices.

Distribution

We circulate the report in-house, except for a weekly copy for the White House.

At this time we do not expect routine distribution of hard copies utside the Department. We anticipate that State officials may receive ccess to the system, given the need for accurate and timely information hen an emergency threatens or materializes. However, such access ould be by cathode ray tube display. Thus, no printed copies would e required beyond those for in-house use.

Sources

In addition to EIA reports, we use a number of publications to pdate the source data files, including:

Petroleum Intelligence Weekly
Oil and Energy Trends
American Petroleum Institute's Weekly Statistical Bulletin
Platt's Oilgram
Association of American Railroad's Weekly Carloading Report
Bureau of the Census' Reports
Coalship Trade and Transport Corporation
Bureau of Labor Statistics' Reports
McGraw-Hill Economics Department
Edison Electric Institute
National Weather Service
Oil and Gas Journal

We also rely upon informal information sources, telephone lls, etc.

Developing Essential Information

Question 10: Describe in detail:

d. The DOE's rapid information retrieval and analytical capability.

Answer: The purpose of this capability is to rapidly retrieve and analyze information to support situation assessments which may be required in any energy disruption. This work is being done in close cooperation with EIA.

To provide this capability, we are (1) developing a data base which satisfies all of our informational requirements; (2) improving the overall system so that it is easier to access and maintain; (3) designing various output formats which will automatically bring together critical data elements from different tables or data sets, such as company-specific information on crude oil refining operations; and (4) integrating the data base so that it can be manipulated for ad hoc analytical tasks.

To this end, we are reviewing information sources within the Department as well as other non-Departmental data. We are also investigating the accessibility of these sources by computer, in order to access the data as soon as they become available. In addition, a task group will develop analytical enhancements to the system. This is expected to be a longterm effort to complete; however, enhancements are being incorporated into the system as they are developed and perfected.

Developing Essential Information

Question 10: Describe in detail:

e. The DIALCOM electronic mail system.

Answer: During energy emergencies, rapid communications are essential for the exchange of timely, accurate and unambiguous information. In past emergencies, the primary communication links have been the telephone, telegraph, teletype, facsimile and postal service, all of which have been useful but have inherent limitations--costliness and time delays.

To augment traditional communication channels we are using an electronic message system (DIALCOM) to exchange messages with a single party or a selected group, such as State energy offices. The advantages of this computer-based system are:

--Simultaneous transmission to a large universe of receivers;

--Receipt of incoming messages while an outbound message is being sent--incoming message is stored until the recipient calls for it;

--An easy to use, easy to learn way to communicate;

--No geographical limitations, no time-zone delays, no missed connections;

--Unambiguous hard-copy exchange of information;

--Ready creation and storage of files within the system--with easy retrieval;

--Priority system ensures most important mail received first;

--Automatic acknowledgement-by time and date--of messages received by the intended recipient; and

--Forwarding capability of stored information to any user, at any time.

Today, 45 states use the system and DOE is exploring ways to add the remaining states. Other potential users include other federal agencies, electric utility associations, emergency executive reserves, trade associations, etc.

Question 10.e. Cont'd

Any number of users can be included on a distribution list--commonly referred to as a "mailbox." Separate mailboxes also can be established. For example, in 1980, a separate mailbox was created for the eight states participating in the IEA's allocation test (AST-3). Each of these states also was on another distribution list (mailbox) with 38 other states for ordinary, non-test transmissions. This arrangement enabled DOE to maintain test separation while permitting uninterrupted message flow on other subjects to and between non-participating states, all on the same system.

Most computer terminals--either portable or wired--with a telephone hook-up can access DIALCOM by dialing a local telephone number, regardless of the users location.

To provide even more effective communication during an emergency, DOE is considering the following:

a. Expanding the universe of users quickly to allow time for training to use DIALCOM, promoting familiarity with the various system options, and making system use an automatic and routine way to communicate; and

b. Enhancing the existing system by installing equipment for off-line text composition, designing software that would synthesize critical information received from diverse sources, designing special formats for data input, computer conferencing for up to 20 parties, and transferring non-proprietary information from the EIA computer into DIALCOM and vice versa.

Developing Essential Information

Question 11: With regard to the activities included in question 10, would you please supply copies of relevant background documents that would set forth the schedules and scope of these activities?

Answer: The following schedule outlines the preliminary approach for development of an EPIP by September 1982. Plan development is on schedule with the next major product, the interim EPIP, available for internal review in early May 1982.

EMERGENCY PUBLIC INFORMATION PLAN (EPIP)

Preliminary Schedule of Events

KEY ACTION		ACTIONS	APPROXIMATE COMPLETION DATE
*	1.	Brief DAS/EE on EPIP objectives and planned approach	February 25
	2.	Solicit membership on EPIP Task Force	March 9
	3.	Produce draft review of available literature on previous public information actions during 1973 and 1979 energy shortages	March 25
*	4.	Provide retrospective on past public information actions to DAS/EE, including proposed State questionnaire	March 31
*	5.	Convene meeting of Task Force; directs review of retrospective	April 1
	6.	Task Force comments received and incorporated into new retrospective	April 7
	7.	Identify current internal DOE responsibilities/resources (Task Force)	April 16
	8.	Identify current public information efforts (Task Force)	April 16
*	9.	Develop Interim Public Information Plan based on current departmental resources and capabilities	May 1

Question 11. Cont'd

KEY ACTION	ACTIONS	APPROXIMATE COMPLETION DATE
	10. Identify external agencies with critical public information roles	May 1
*	11. Convene meeting of external agencies to discuss project/participation	May 7
	12. Begin discussions with selected industry groups	May 14
*	13. Report on findings and recommendations	June 15
	14. Analyze public information requirements: roles, data development and release, target audiences, Federal spokesmen	August 20
*	15. Issue Final Report of Findings and Recommendations; proceed with development of EPIP	August 27
*	16. Issue draft EPIP to DAS/EE and AS/EP (representing Task Force consensus views)	September 30

Developing Essential Information

Question 12: With regard to utilization of IEA data and expertise, what is the authority for such information retrieval and analytical capability?

Answer: We know of no legal obstacle to the U.S. Government utilization of data or analyses distributed by the IEA, as in the case of any other source of useful information. Some IEA data contain company proprietary information and are classified by the IEA. DOE handles such data according to IEA guidelines.

Coordination with Other Agencies, States and Localities, and the Private Sector

Question 13: With regard to revitalization of the Executive Manpower Reserves,

a. Would you describe in detail the Executive Manpower Reserves--the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve, and Emergency Solid Fuels Reserve?

Answer: We intend for Emergency Executive Reserve units to serve as standby organizations to help meet the Nation's needs for oil, gas, solid fuels and electric power in the event of limited or general war, international tensions that threaten national security, and other Presidentially-declared emergencies. The units would assist, coordinate, and when necessary, participate in the direction of certain essential activities of their respective industries to assure supplies of energy to meet critical military and civilian needs. The basic emergency functions of the units include:

--Formulating, coordinating and implementing emergency energy supply programs;

--Representing the energy supply industries before other federal agencies to obtain such critical resources as labor, materiel, transportation, communications, and funds needed for vital activities;

--Helping to distribute scarce energy resources, from primary inventories, production and generation, through distribution to wholesalers, retailers and end-users; and

--Maintaining communications and liaison with energy supply industries, energy consumers, and government agencies as necessary to perform these functions and assist in assessing the scope and magnitude of an emergency.

These units were organized first within the Department of the Interior and later were transferred to the jurisdiction of the Secretary of Energy upon creation of DOE in 1977. The Reserves consist of civilians qualified either as National Defense Executive Reservists (NDERs) or as special government employees serving without compensation (WOCs), and full-time federal employees.

Details concerning the functions, organization, membership qualifications, and other aspects of the Reserves are being reevaluated both by DOE and the Federal Emergency Management Agency, which coordinates all NDER programs. It is DOE's intention to establish for each unit a structure that provides prudent flexibility of operation, and to enlist and train a cadre of reservists by the end of FY 1983.

Coordination with Other Agencies, States and
Localities, and the Private Sector

Question 13: With regard to revitalization of the Executive Manpower Reserves,

b. Would you describe the statutory authority for such Reserves?

Answer: Basic statutory authority arises from the Defense Production Act of 1950, (DPA) as amended, section 710(e), which provides for the President to establish and train "a nucleus executive reserve for employment in executive positions in Government during periods of emergency." Section 710(b), of the same Act, authorizes the President, "to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act, and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation..." A series of Executive Orders provide specific authorities for the three Emergency Executive Reserves. (The applicable Executive Orders are: E.O. 10647, E.O. 11179, E.O. 11490 and E.O. 12038.)

Question 13: With regard to revitalization of the Executive Manpower Reserves,

c: Was this approach approved by the Cabinet Council? If so, when? If not, will it be submitted to the Cabinet Council?

Answer: This approach to revitalizing the emergency executive reserve organizations by the DOE has not been submitted to the Cabinet Council. There are no present plans to do so since this is a continuation of an ongoing program.

Coordination with Other Agencies, States and Localities, and the Private Sector

Question 13: With regard to revitalization of the Executive Manpower Reserves,

d. Would you please supply copies of relevant background documents that would set forth the schedule and scope of these activities?

Answer: The following items are herewith submitted:

--Executive Order 10647--Providing for the Appointment of Certain Persons Under the Defense Production Act of 1950, as Amended;

--Executive Order 11179--Providing for the National Defense Executive Reserve;

--Executive Order 11490--Assigning Emergency Preparedness Functions to Federal Departments and Agencies, as Amended (Excerpts);
--Executive Order 12038--Relating to Certain Functions Transferred to the Secretary of Energy by the Department of Energy Organization Act;

--Federal Preparedness Circular 24--Providing for the National Defense Executive Reserve, dated April 4, 1980, to which the NDER policies and procedures manual is attached.

EXECUTIVE ORDER 10647

Providing for the Appointment of Certain Persons Under the Defense Production Act of 1950, as Amended.

By virtue of the authority vested in me by the Defense Production Act of 1950 (64 Stat. 798), as amended (50 U.S.C. App. 2061 et seq.), hereinafter referred to as the Act, it is hereby ordered as follows:

PART I--DELEGATION OF AUTHORITY

SECTION 101 (a) There is hereby delegated to the head of each department or agency to whom functions are delegated or assigned under the Act the authority vested in the President by subsection 710 (b) (1) of the Act to employ persons of outstanding experience and ability without compensation. The authority delegated by this subsection shall not be re-delegated.

(b) There is hereby further delegated to the head of each such department or agency the authority vested in the President by subsection 710 (c) of the Act to employ experts and consultants or organizations thereof. The authority delegated by this subsection shall not be re-delegated.

SEC. 102. The head of each department or agency to whom authority is delegated by subsections 101 (a) and 101 (b) of this order shall be guided in the exercise of that authority by the following-described policies:

(a) So far as possible, operations under the Act shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall, so far as possible, be to advisory or consultative positions only.

(b) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(c) In addition to other requirements imposed by this order, the head of the department or agency involved shall, in the appointment of personnel and in assignment of their duties, take steps to avoid, to as great an extent as possible, any conflict between the Government duties and the private interests of such personnel.

SEC. 103. (a) All persons appointed pursuant to the authority delegated by subsection 101 (a) of this order, or appointed pursuant to the authority delegated by subsection 101 (a) of Executive Order No. 10182 1/ of November 21, 1950, as amended by Executive Order No. 10205 2/ of January 16, 1951, and still employed on the date of this order, shall, when policy matters are involved, be limited to advising appropriate, full-time Government officials who are responsible for making policy decisions.

(b) All persons appointed pursuant to the authority delegated by subsection 101 (b) of this order, or appointed pursuant to the authority delegated by subsection 101 (b) of the said Executive Order No. 10182, as amended, and still employed on the date of this order, shall, when policy matters are involved, be limited to advising appropriate persons who are responsible for making policy decisions or who are authorized to make recommendations with respect to policy matters.

PART II--EXEMPTIONS

SEC. 201. Any person employed pursuant to the authority delegated by subsection 101 (a) of this order is exempted, with respect to such employment, by section 710 (b) (4) of the Act from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99) except that:

(a) Exemption thereunder does not extend to the negotiation of execution, by such appointee, of Governmental contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(b) Exemption thereunder does not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest.

1/ 3 CFR, 1950 Supp., p. 148.
2/ 3 CFR, 1951 Supp., p. 70.

(c) Exemption thereunder does not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under subsection 101 (a) of this order during the period of such employment and the further period of two years after the termination of such employment; and

(d) Exemption thereunder does not extend to the receipt or payment of salary in connection with the appointee's Government service from any source other than the private employer of the appointee at the time of his appointment under subsection 101 (a) of this order.

SEC. 202. Any person employed pursuant to the authority delegated by subsection 101 (b) of this order is hereby exempted, with respect to such employment, from the operation of sections 281, 283, and 284 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99), except that:

(a) Exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(b) Exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest; and

(c) Exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under subsection 101 (b) of this order during the period of such employment and the further period of two years after the termination of such employment.

PART III--CERTIFICATIONS, STATEMENTS, AND REPORTS

SEC. 301 (a) Appointments made pursuant to the authority delegated by subsection 101 (a) of this order shall be supported by written certification by the head of the employing department or agency:

(1) That the appointment is necessary and appropriate in order to carry out the provisions of the Act;

(2) That the duties of the position to which the appointment is being made require outstanding experience and ability;

(3) That the appointee has the outstanding experience and ability required by the position; and

(4) That the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

(b) The certification required by subsection (a) of this section shall be accompanied by a statement:

(1) Describing the functions under the Act which the appointee is expected to perform and his responsibilities and duties in performing such functions;

(2) Showing why the head of the department or agency has concluded that the duties of the position require outstanding experience and ability;

(3) Showing the appointee's experience and accomplishments which justify the conclusion of the head of the department or agency that the employee has outstanding experience and ability; and

(4) Setting forth a summary of the reasons why the head of the department or agency has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

SEC. 302 (a) The heads of the departments or agencies making appointments pursuant to the authority delegated by subsection 101 (a) of this order shall, within thirty days from the date of appointment, file with the Federal Register Division for publication in the Federal Register a statement including:

(1) The name of the appointee;

(2) The name of the employing department or agency;

(3) The title of the appointee's position; and

(4) The name of the appointee's private employer or employers.

(b) All persons appointed pursuant to the authority delegated by subsection 101 (a) of this order shall, within thirty days from the date of the appointment, file with the Federal Register Division for publication in the Federal Register a statement listing:

(1) The names of any corporation in which he is, or within 60 days preceding his appointment has been, an officer or director;

(2) The names of any corporation in which he owns, or within 60 days preceding his appointment has owned, any stocks, bonds, or other financial interests;

(3) The names of any partnerships in which he is, or within 60 days preceding his appointment has been, a partner; and

(4) The names of any other businesses in which he owns, or within 60 days preceding his appointment has owned, any similar interest.

(c) At the end of each succeeding six-month period, the appointee shall file with the Federal Register Division for publication in the Federal Register a statement showing any changes in such interests during such period.

(d) As used in this section:

(1) The term "owns" or "has owned" refers to any legal or equitable, vested or contingent, interest, however held. The names of corporations, partnerships, or other businesses in which a legal interest is owned by the appointee in a fiduciary capacity shall be listed only when any beneficiary is the spouse, parent, child, brother, or sister of the appointee. The names of corporations, partnerships, or other businesses in which an equitable interest is owned by the appointee shall be listed only when the appointee controls, or participates in the control of, the legal interest. However, the name and nature of the legal interest shall be specified when the appointee owning an equitable interest does not control, or participate in the control of, the legal interest.

(2) The term "other financial interests" includes any direct or indirect interests in the pecuniary profits or contracts of corporations, partnerships, or other businesses, including salaries, commissions, bonuses, options, retirement benefits, severance pay, or like interests, but excludes insurance policies of insurance companies in which the sole interest of the appointee is that policy.

SEC. 303. Persons employed pursuant to the authority delegated by subsection 101 (a) or 101 (b) of this order may be allowed transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment. Persons employed pursuant to the authority delegated by subsection 101 (b) of this order may also be compensated at rates not in excess of $50 per diem.

SEC. 304. All appointments under 710 (b) (1) and 710 (c) of the Act shall be made under the terms of this order. All persons heretofore appointed under subsection 101 (a) of Executive Order No. 10182, as amended by Executive Order No. 10205, who are still employed on the date of this order shall comply with this Part, and, upon compliance, shall be deemed for all purposes to have been appointed under this order and to be subject to its provisions, including the provisions of subsections 302 (a) and 302 (b) relating to statements required thereby, except that statements relating to appointments made under subsection 101 (a) of Executive Order No. 10182, as amended, shall be filed within thirty days from the date of this order.

SEC. 305 (a) At least once every three months the Chairman of the Civil Service Commission shall survey appointments made under the Act. Such survey shall include the following:

(1) A determination whether a statement with respect to each person appointed pursuant to subsection 101 (a) of this order has been filed by the head of the department or agency concerned in accordance with the requirements of subsection 302 (a) of this order;

(2) A determination whether each person appointed pursuant to the said subsection 101 (a) has filed a statement in accordance with the requirements of subsection 302 (b) of this order;

(3) A determination whether each person appointed pursuant to subsection 101 (a) of this order who has served six months or more has filed a statement in accordance with the requirements of subsection 302 (c) of this order;

(4) A determination whether a statement with respect to each person appointed pursuant to subsection 101 (a) of Executive Order No. 10182, as amended by Executive Order No. 10205, has been filed by the head of the department or agency concerned in accordance with the requirements of section 304 of this order;

(5) A determination whether each person appointed pursuant to subsection 101 (a) of the said Executive Order No. 10182, as amended, has filed a statement in accordance with the requirements of section 304 of this order; and

(6) An inspection of individual department and agency files to determine whether the certifications and the statements required by subsections 301 (a) and (b), respectively, of this order have been made.

(b) A report of each such survey shall be made by the Chairman of the Civil Service Commission to the President and to the Joint Committee on Defense Production and shall include the following:

(1) A statistical report showing the number of appointments made pursuant to the authority of this order by each department or agency for the three-month period covered, the total number of such appointees on the rolls of each department or agency, the number of employees serving in advisory or consultative positions, and the number of appointees who are serving in other than consultative or advisory positions;

(2) A list of the names of all appointees for whom the statements required by section 302 of this order have not been filed, and a list of the names of all appointees for whom the certification required by subsection 301 (a) of this order has not been made; and

(3) Such comments or recommendations as the Chairman of the United States Civil Service Commission may deem proper.

SEC. 306. Executive Order No. 10182 of November 21, 1950, and Executive Order No. 10205 of January 16, 1951, are hereby revoked.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
November 28, 1955

Executive Order 11179

Providing for the National Defense Executive Reserve

By virtue of the authority vested in me by the Constitution and statutes of the United States, including Sections 703(a) and 710(e) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2153(a); 2160(e)), and as President of the United States, it is hereby ordered as follows:

Section 1. There shall be in the Executive Branch of the Government a National Defense Executive Reserve composed of persons selected from various segments of the civilian economy and from government for training for employment in executive positions in the Federal Government in the event of the occurrence of an emergency that requires such employment.

Sec. 2. The Director of the Office of Emergency Planning (hereinafter referred to as the Director) shall administer the Executive Reserve program; coordinate the activities of other agencies in establishing units of the Reserve; provide for appropriate standards of recruitment and training; approve prospective members of the Executive Reserve; and issue necessary rules and regulations in connection with the program.

Sec. 3. The Director, in carrying out his responsibilities under this order, may utilize the services of other departments and agencies in the maintenance of agency and centralized rosters and in the development of training programs and materials.

Sec. 4. (a) The head of any department or agency of the Government (hereinafter referred to as a Secretary), designated by the Director after appropriate consultation, may establish a unit of the Executive Reserve (hereinafter referred to as Executive Reserve Units) in his respective department or agency.

(b) Executive Reserve Units existing under Executive Order No. 10660 of February 15, 1956, as amended, on the date of this order shall henceforth be deemed to be Executive Reserve Units under this order.

Sec. 5. Membership in Executive Reserve Units shall be subject to the following:

(1) Subject to the provisions of this order, particularly paragraph (4) of this section, an individual who on the date of this order was a member of an Executive Reserve Unit under Executive Order No. 10660 may continue to serve therein without further designation.

(2) A Secretary desiring to designate an individual to serve as a member of an Executive Reserve Unit of his department or agency shall submit the name of the prospective designee to the Director for approval. Upon approval of the prospective designee by the Director, the Secretary concerned may designate the individual as a member of the Executive Reserve Unit of his department or agency.

(3) An individual whose membership in an Executive Reserve Unit has at any time expired, or is at any time about to expire, under the terms of this order may be redesignated as a member under the procedure set forth in paragraph (2) of this section.

(4) Without limiting the authority of the respective Secretaries to terminate the membership of any individual in an Executive Reserve Unit at any time, it is directed that continued service of a member under paragraph (1) of this section, and the designation or redesignation of a member under paragraph (2) or (3) of this section, respectively (including any designation of an individual occurring at the expiration of his continued service under paragraph (1)), shall be for a period not to exceed three years.

Sec. 6. Activities of any person by reason of his continuance, designation, or redesignation as an Executive Reservist under this order shall not include acting or advising on any matter pending before any department or agency but shall be limited to receiving training for mobilization assignments under the Reserve program.

* Sec. 7. The Director shall report to the President annually, and at such other times as may be appropriate, on the status and operation of the Executive Reserve program.

Sec. 8. Executive Order No. 10660 of February 15, 1956, entitled "Providing for the Establishment of a National Defense Executive Reserve," as amended, is hereby superseded.

Lyndon B. Johnson

The White House,
September 22, 1964.

EDITORIAL NOTE: Executive Order 11490, as amended by Executive Order 11921 of June 11, 1976, has been reprinted in its entirety for the convenience of the reader.

EXECUTIVE ORDER 11490—ASSIGNING EMERGENCY PREPAREDNESS FUNCTIONS TO FEDERAL DEPARTMENTS AND AGENCIES [AS AMENDED]

SOURCE: The provisions of Executive Order 11490 of Oct. 28, 1969, appear at 34 FR 17567, 3 CFR, 1966–1970 Comp., p. 820, unless otherwise noted.

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national emergency type situation that might conceivably confront the nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national emergency preparedness plans and has provided funds for the accomplishment thereof; and

WHEREAS this national emergency preparedness planning activity has been an established program of the United States Government for more than twenty years:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered as follows—

TABLE OF CONTENTS

Part

1 Purpose and Scope.
2 Department of State.
3 Department of the Treasury.
4 Department of Defense.
5 Department of Justice.
6 United States Postal Service.
7 Department of the Interior.
8 Department of Agriculture.
9 Department of Commerce.
10 Department of Labor.
11 Department of Health, Education, and Welfare.
12 Department of Housing and Urban Development.
13 Department of Transportation.
14 Atomic Energy Commission.
15 Civil Aeronautics Board.
15A Environmental Protection Agency.
16 Export-Import Bank of the United States.
17 Federal bank supervisory agencies.
18 Federal Communications Commission.
19 Federal Power Commission.
20 General Services Administration.
21 Interstate Commerce Commission.
22 National Aeronautics and Space Administration.
22A National Credit Union Administration.
23 National Science Foundation.
24 Railroad Retirement Board.
25 Securities and Exchange Commission.
26 Small Business Administration.
27 Tennessee Valley Authority.
28 United States Civil Service Commission.
28A United States Information Agency.
29 Veterans Administration.
30 General Provisions.

PART 1—PURPOSE AND SCOPE

SECTION 101. *Purpose.* This order consolidates the assignment of emergency preparedness functions to various departments and agencies heretofore contained in the 21 Executive orders and 2 Defense

Mobilization orders listed in Section 3015 of this order. Assignments have been adjusted to conform to changes in organization which have occurred subsequent to the issuance of those Executive orders and Defense Mobilization orders.

SEC. 102. *Scope.* (a) This order is concerned with the emergency national planning and preparedness functions of the several departments and agencies of the Federal Government which complement the military readiness planning responsibilities of the Department of Defense; together, these measures provide the basic foundation for our overall national preparedness posture, and are fundamental to our ability to survive. The activities undertaken by the departments and agencies pursuant to this order, except as provided in Section 3008, shall be in accordance with guidance provided by, and subject to evaluation by, the Administrator of General Services who has established within the General Services Administration a subordinate agency, the Federal Preparedness Agency, to assume those functions of the former Office of Emergency Preparedness transferred to the Administrator of General Services by Section 3 of Executive Order 11725 of June 27, 1973.

(b) The departments and agencies of the Federal Government are hereby severally charged with the duty of assuring the continuity of the Federal Government in any national emergency type situation that might confront the nation. To this end, each department and agency with essential functions, whether expressly identified in this order or not, shall develop such plans and take such actions, including but not limited to those specified in this order, as may be necessary to assure that it will be able to perform its essential functions, and continue as a viable part of the Federal Government, during any emergency that might conceivably occur. These include plans for maintaining the continuity of essential functions of the department or agency at the seat of government and elsewhere, through programs concerned with: (1) succession to office; (2) predelegation of emergency authority; (3) safekeeping of essential records; (4) emergency relocation sites supported by communications and required services; (5) emergency action steps; (6) alternate headquarters or command facilities; and (7) protection of Government resources, facilities, and personnel. The continuity of Government activities undertaken by the departments and agencies shall be in accordance with guidance provided by, and subject to evaluation by, the Director of the Federal Preparedness Agency (GSA).

(c) In addition to the activities indicated above, the heads of departments and agencies described in Parts 2 through 29 of this order shall: (1) prepare national emergency plans, develop preparedness programs, and attain an appropriate state of readiness with respect to the functions assigned to them in this order for all conditions of national emergency; (2) give appropriate consideration to emergency preparedness factors in the conduct of the regular functions of their agencies, particularly those functions considered essential in time of emergency, and (3) be prepared to implement, in the event of an emergency, all appropriate plans developed under this order.

[Sec. 102 amended by EO 11921 of June 11, 1976]

SEC. 103. *Presidential Assistance.* The Director of the Federal Preparedness Agency (GSA), in accordance with the provisions of Executive Order No. 11051 of September 27, 1962, shall advise and assist the President in determining national preparedness goals and policies for the performance of functions under this order and in coordinating the performance of such functions with the total national preparedness program.

[Sec. 103 amended by EO 11921 of June 11, 1976]

SEC. 104. *General and Specific Functions.* The functions assigned by Part 30, General Provisions, apply to all departments and agencies having emergency preparedness responsibilities. Specific functions are assigned to departments and agencies covered in Parts 2 through 29.

able, for cooperation with local authorities in connection with mass feeding and housing, for the storage of standby emergency equipment, for the emergency use of prison hospitals and laboratory facilities, for the continued availability of prison-industry products, and, in coordination with the Department of Labor, for the development of Federal prisoner skills to appropriately augment the total supply of manpower, advise States and their political subdivisions regarding the use of State and local prisons, jails, and prisoners for the purpose of relieving local situations and conditions arising from a state of emergency.

(3) *Identification and location of persons.* Develop emergency plans and procedures for the use of the facilities and personnel of the Department of Justice in assisting the Department of Health, Education, and Welfare with the development of plans and procedures for the identification of the dead and the reuniting of families during a civil defense emergency.

Part 6—United States Postal Service

Section 601. *Functions.* The Postmaster General shall prepare plans and programs for emergency mail service and shall cooperate with indicated Federal agencies, in accordance with existing agreements or directives, in the following national emergency programs:

(1) *Registering of persons.* Assist the Department of Health, Education, and Welfare in planning a national program and developing technical guidance for States, and directing Postal Service activities concerned with registering persons and families for the purpose of receiving and answering welfare inquiries and reuniting families in civil defense emergencies. The program shall include procurement, transportation, storage, and distribution of safety notification and emergency change of address cards in quantities and localities jointly determined by the Department of Defense and the United States Postal Service.

(2) *Other emergency programs.* (a) Censorship of international mails. (Department of Defense; Department of the Treasury; Federal Preparedness Agency (GSA))

(b) Provision for emergency mail service to Federal agencies at both regular and emergency sites. (General Services Administration)

(c) Emergency registration of Federal employees. (Civil Service Commission)

(d) Registration of enemy aliens. (Department of Justice)

[Sec. 601 amended by EO 11921 of June 11, 1976]

Part 7—Department of the Interior

Section 701. *Résumé of Responsibilities.* The Secretary of the Interior shall prepare national emergency plans and develop preparedness programs covering (1) electric power; (2) petroleum and gas; (3) solid fuels; (4) minerals; and (5) water, as defined in Section 702 of this part.

Sec. 702. *Definitions.* As used in this part:

(1) "Electric power" means all forms of electric power and energy, including the generation, transmission, distribution, and utilization thereof.

(2) "Petroleum" means crude oil and synthetic liquid fuel, their products, and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage.

(3) "Gas" means natural gas (including helium) and manufactured gas, including pipelines for their movement and facilities specially designed for their storage.

(4) "Solid fuels" means all forms of anthracite, bituminous, subbituminous, and lignitic coals, coke, and coal chemicals produced in the coke-making process.

(5) "Minerals" means all raw materials of mineral origin (except petroleum, gas, solid fuels, and source materials as defined in the

Atomic Energy Act of 1954, as amended) obtained by mining and like operations and processed through the stages specified and at the facilities designated in an agreement between the Secretary of the Interior and the Secretary of Commerce as being within the emergency preparedness responsibilities of the Secretary of the Interior.

(6) "Water" means all usable waters, from all sources, within the jurisdiction of the United States, which can be managed, controlled and allocated to meet emergency requirements.

[Sec. 702(6) amended by EO 11921 of June 11, 1976]

Sec. 703. *Resource functions.* With respect to the resources defined in Section 702, the Secretary of the Interior shall:

(1) *Minerals development.* Develop programs and encourage the exploration, development, and mining of strategic and critical minerals for emergency purposes.

(2) *Production.* Provide guidance and leadership to assigned industries in the development of plans and programs to insure the continuity of production in the event of an attack, and cooperate with the Department of Commerce in the identification and evaluation of essential facilities.

(3) *Water.* Develop overall plans for the management, control, and allocation of the water resources of the nation in an emergency. Establish a system of priorities for the use of water in periods of emergency. Coordinate the emergency water planning efforts of those departments and agencies having specific statutory or delegated water responsibilities. Coordinate the overall plans with those developed by the Environmental Protection Agency to provide potable water for community needs. In developing any plans relating to water for use on farms and in food facilities, assure that those plans are in consonance with plans and programs of the Department of Agriculture. Provide national leadership and coordination for the development of Federal emergency plans for the management and allocation of water resources in the national interest during an emergency. Coordinate emergency water resource planning at the State, interstate, and local levels through the appropriate Federal departments and agencies concerned with each area of planning.

(4) *Electric power and natural gas.* In preparedness planning for electric power and natural gas, the Federal Power Commission shall assist the Secretary of the Interior as set forth in Section 1901 of this order.

[Sec. 703(3) amended by EO 11921 of June 11, 1976]

PART 8—DEPARTMENT OF AGRICULTURE

SECTION 801. *Résumé of Responsibilities.* The Secretary of Agriculture shall prepare national emergency plans and develop preparedness programs covering: (1) food resources, farm equipment, fertilizer, and food resource facilities as defined below; (2) lands under the jurisdiction of the Secretary of Agriculture; (3) rural fire control; (4) defense against hazardous agents (nuclear, biological and chemical) and effects pertaining to agricultural activities; and (5) rural defense information and education.

[Sec. 801(4) amended by EO 11921 of June 11, 1976]

Sec. 802. *Definitions.* As used in this part:

(1) "Food resources" means all commodities and products, simple, mixed, or compound, or complements to such commodities or products, that are capable of being eaten or drunk, by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption. For the purposes of this order, the term "food resources" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

(b) The Secretary of Transportation, assisted by the Secretary of Defense, shall, with respect to the CRAF program, specifically when civil air carrier aircraft allocated thereto are withdrawn for use in the program, retain responsibility for claimancy as provided in Section 3001.

(3) Emergency resource management of all Federal, State, city, local and other highways, roads, streets, bridges, tunnels, and appurtenant structures, and publicly-owned highway maintenance equipment, including:

(a) The adaptation, development, construction, reconstruction and maintanance of the nation's highway and street systems to meet emergency requirements; and

(b) The regulation of highway traffic in an emergency through a national program in cooperation with all Federal, State, and local governmental units concerned to assure efficient and safe utilization of available road space.

(4) Emergency plans for urban mass transportation, including:

(a) Providing guidance to urban communities in their emergency mass transportation planning efforts, either directly or through State, regional, or metropolitan agencies;

(b) Coordinating all such emergency planning with the Department of Housing and Urban Development to assure compatibility with emergency plans for all other aspects of urban development;

(c) Maintaining an inventory of urban mass transportation systems.

(5) Maritime safety and law enforcement over, upon, and under the high seas and waters, subject to the jurisdiction of the United States, in the following specific programs:

(a) Safeguarding vessels, harbors, ports, and waterfront facilities from destruction, loss or injury, accidents, or other causes of a similar nature.

(b) Safe passage over, upon, and under the high seas and United States waters through effective and reliable systems of aids to navigation and ocean stations.

(c) Waterborne access to ice-bound locations in furtherance of national economic, scientific, defense, and consumer needs.

(d) Protection of lives, property, natural resources, and national interests through enforcement of Federal law and timely assistance.

(e) Safety of life and property through regulation of commercial vessels, their officers and crew, and administration of maritime safety law.

(f) Knowledge of the sea, its boundaries, and its resources through collection and analysis of data in support of the national interest.

(g) Operational readiness for essential wartime functions.

(6) Planning for the emergency management and operation of the Alaska Railroad, and for the continuity of railroad and petroleum pipeline safety programs.

(7) Planning for the emergency operation and maintenance of the United States-controlled sections of the Saint Lawrence Seaway.

[Sec. 1303 amended by EO 11921 of June 11, 1976]

PART 14—ATOMIC ENERGY COMMISSION

SECTION 1401. *Functions.* The Atomic Energy Commission shall prepare national emergency plans and develop preparedness programs for the continuing conduct of atomic energy activities of the Federal Government. These plans and programs shall be designed to develop a state of readiness in these areas with respect to all conditions of national emergency, including attack upon the United States and, consistent with applicable provisions of the Atomic Energy Act of 1954, as amended, shall be closely coordinated with the Department of Defense and the Federal Preparedness Agency (GSA). The Atomic Energy Commission shall:

(1) *Production.* Continue or resume in an emergency essential (a) manufacture, development, and control of nuclear weapons and equipment, except to the extent that the control over such weapons and equipment shall have been transferred to the Department of Defense; (b) development and technology related to reactors; (c) process development and production of feed material, special nuclear materials, and other special products; (d) related raw materials procurement, processing, and development; and (e) repair, maintenance, and construction related to the above.

(2) *Regulation.* Continue or resume in an emergency (a) controlling the possession, use, transfer, import, and export of atomic materials and facilities; and (b) ordering the operation or suspension of licensed facilities, and recapturing from licensees, where necessary, special nuclear materials whether related to military support or civilian activities.

(3) *Public health and safety.* Shut down, where required, in anticipation of an imminent enemy attack on the United States, and maintain under surveillance, all Commission-owned facilities which could otherwise constitute a significant hazard to public health and safety, and insure the development of appropriate emergency plans for nuclear reactors and other nuclear activities licensed by the Commission whether privately-owned or Government-owned.

(4) *Scientific, technical, and public atomic energy information.* Organize, reproduce, and disseminate appropriate public atomic energy information and scientific and technical reports and data relating to nuclear science research, development, engineering, applications, and effects to interested Government agencies, the scientific and technical communities, and approved, friendly, and cooperating foreign nations.

(5) *International atomic energy affairs.* Maintain, in consultation with the Department of State, essential liaison with foreign nations with respect to activities of mutual interest involving atomic energy.

(6) *Health services.* Assist the Department of Health, Education, and Welfare, consistent with the above requirements, in integrating into civilian health programs in an emergency the Commission's remaining health manpower and facilities not required for the performance of the Commission's essential emergency functions.

(7) *Priorities and allocations.* Plan for the administration of any priorities and allocations authority delegated to the Atomic Energy Commission. Authorize procurement and production schedules and make allotments of controlled materials pursuant to program determinations of the Federal Preparedness Agency (GSA).

[Sec. 1401 amended by EO 11921 of June 11, 1976]

PART 15—CIVIL AERONAUTICS BOARD

SECTION 1501. *Definitions.* As used in this part:

(1) "War Air Service Program" (hereinafter referred to as WASP) means the program designed to provide for the maintenance of essential civil air routes and services, and to provide for the distribution and redistribution of air carrier aircraft among civil air transport carriers after withdrawal of aircraft allocated to the Civil Reserve Air Fleet.

(2) "Civil Reserve Air Fleet" (hereinafter referred to as CRAF) means those air carrier aircraft allocated by the Secretary of Transportation to the Department of Defense to meet essential military needs in the event of an emergency.

SEC. 1502. *Functions.* The Civil Aeronautics Board, under the coordinating authority of the Secretary of Transportation, shall exercise emergency resource management of the WASP. Except for those functions enumerated in Sections 3001 (excluding evaluation), 3002, 3003, and 3005, which have been reserved to the Secretary of Trans-

¶ 12,161 Executive Order 12038

Relating to Certain Functions Transferred to the Secretary of Energy by the Department of Energy Organization Act

By virtue of the authority vested in me as President of the United States of America, in order to reflect the responsibilities of the Secretary of Energy for the performance of certain functions previously vested in other officers of the United States by direction of the President and subsequently transferred to the Secretary of Energy pursuant to the Department of Energy Organization Act (91 Stat. 565; 42 USC 7101 *et seq.*), it is hereby ordered as follows:

[¶ 12,162]

SECTION 1. *Functions of the Federal Energy Administration.* In accordance with the transfer of all functions vested by law in the Federal Energy Administration, or the Administrator thereof, to the Secretary of Energy pursuant to Section 301(a) of the Department of Energy Organization Act, hereinafter referred to as the Act, the Executive Orders and Proclamations referred to in this Section, which conferred authority or responsibility upon the Administrator of the Federal Energy Administration, are amended as follows:

(a) Executive Order No. 11647, as amended, relating to Federal Regional Councils, is further amended by deleting "The Federal Energy Administration" in Section 1(a)(10) and substituting "The Department of Energy", and by deleting "The Deputy Administrator of the Federal Energy Administration" in Section 3(a)(10) and substituting "The Deputy Secretary of Energy".

(b) Executive Order No. 11790 of June 25, 1974, relating to the Federal Energy Administration Act of 1974, is amended by deleting "Administrator of the Federal Energy Administration" and "Administrator" wherever they appear in Sections 1 through 6 and substituting "Secretary of Energy" and "Secretary", respectively, and by deleting Section[s] 7 through 10.

(c) Executive Order No. 11912, as amended, relating to energy policy and conservation, and Proclamation No. 3279, as amended, relating to imports of petroleum and petroleum products, are further amended by deleting "Administrator of the Federal Energy Administration", "Federal Energy Administration", and "Administrator" (when used in reference to the Federal Energy Administration) wherever those terms appear and by substituting "Secretary of Energy", "Department of Energy", and "Secretary", respectively, and by deleting "and the Administrator of Energy Research and Development" in Section 1(b) of Executive Order No. 11912, as amended.

[¶ 12,163]

SEC. 2. *Functions of the Federal Power Commission.* In accordance with the transfer of functions vested in the Federal Power Commission to the Secretary of Energy pursuant to Section 301(b) of the Act, the Executive Orders referred to in this Section, which conferred authority or responsibility upon the Federal Power Commission, or Chairman thereof, are amended or modified as follows:

(a) Executive Order No. 10485 of September 3, 1953, relating to certain facilities at the borders of the United States is amended by deleting Section 2 thereof, and by deleting "Federal Power Commission" and "Commission" wherever those terms appear in Sections 1, 3 and 4 of such Order and substituting for each "Secretary of Energy".

(b) Executive Order No. 11969 of February 2, 1977, relating to the administration of the Emergency Natural Gas Act of 1977, is hereby amended by deleting the second sentence in Section 1, by deleting "the Secretary of the Interior, the Administrator of the Federal Energy Administration, other members of the Federal Power Commission and" in Section 2, and by deleting "Chairman of the Federal Power Commission" and "Chairman" wherever those terms appear and substituting therefor "Secretary of Energy" and "Secretary", respectively.

(c) Paragraph (2) of Section 3 of Executive Order No. 11331, as amended, relating to the Pacific Northwest River Basins Commission, is hereby amended by deleting "from each of the following Federal departments and agencies" and substituting therefor "to be appointed by the head of each of the following Executive agencies", by deleting "Federal Power Commission" and substituting therefor "Department of Energy", and by deleting "such member to be appointed by the head of each department or independent agency he represents".

[¶ 12,164]

SEC. 3. *Functions of the Secretary of the Interior.* In accordance with the transfer of certain functions vested in the Secretary of the Interior to the Secretary of Energy pursuant to Section 302 of the Act, the Executive Orders referred to in this Section, which conferred authority or responsibility on the Secretary of the Interior, are amended or modified as follows:

(a) Sections 1 and 4 of Executive Order No. 8526 of August 27, 1940, relating to functions of the Bonneville Power Administration, are hereby amended by substituting "Secretary of Energy" for "Secretary of the Interior", by adding "of the Interior" after "Secretary" in Sections 2 and 3, and by adding "and the Secretary of Energy," after "the Secretary of the Interior" wherever the latter term appears in Section 5.

(b) Executive Order No. 11177 of September 16, 1964, relating to the Columbia River Treaty, is amended by deleting "Secretary of the Interior" and "Department of the Interior" wherever those terms appear and substituting therefor "Secretary of Energy" and "Department of Energy", respectively.

[¶ 12,165]

SEC. 4. *Functions of the Atomic Energy Commission and the Energy Research and Development Administration.*

(a) In accordance with the transfer of all functions vested by law in the Administrator of Energy Research and Development to the Secretary of Energy pursuant to Section 301(a) of the Act, the Executive Orders referred to in this Section are amended or modified as follows:

(1) All current Executive Orders which refer to functions of the Atomic Energy Commission, including Executive Order No. 10127, as amended; Executive Order No. 10865, as amended; Executive Order No. 10899 of December 9, 1960; Executive Order No. 11057 of December 18, 1962; Executive Order No. 11477 of August 7, 1969; Executive Order No. 11752 of December 17, 1973; and Executive Order No. 11761 of January 17, 1974 are modified to provide that all such functions shall be exercised by (1) the Secretary of Energy to the extent consistent with the functions of the Atomic Energy Commission that were transferred to the Administrator of Energy Research and Development pursuant to the Energy Organization Act of 1974 (Public Law 93-438; 88 Stat. 1233), and (2) the Nuclear Regulatory Commission to the extent consistent with the functions of the Atomic Energy Commission that were transferred to the Commission by the Energy Reorganization Act of 1974.

(2) Executive Order No. 11652, as amended, relating to the classification of national security matters, is further amended by substituting "Department of Energy" for "Energy Research and Development Administration" in Sections 2(A), 7(A) and 8 and by deleting "Federal Power Commission" in Section 2(B)(3).

(3) Executive Order No. 11902 of February 2, 1976, relating to export licensing policy for nuclear materials and equipment, is amended by substituting "the Secretary of Energy" for "the Administrator of the United States Energy Research and Development Administration, hereinafter referred to as the Administrator" in Section 1(b) and for the "Administrator" in Sections 2 and 3.

(4) Executive Order No. 11905, as amended, relating to foreign intelligence activities, is further amended by deleting "Energy Research and Development Administration", "Administrator of the Energy Research and Development Administration", and "ERDA" wherever those terms appear and substituting "Department of Energy", "Secretary of Energy", and "DOE" respectively.

(5) Section 3(2) of each of the following Executive Orders is amended by substituting "Department of Energy" for "Energy Research and Development Administration":

(i) Executive Order No. 11345, as amended, establishing the Great Lakes River Basin Commission.

(ii) Executive Order No. 11371, as amended, establishing the New England River Basin Commission.

(iii) Executive Order No. 11578, as amended, establishing the Ohio River Basin Commission.

(iv) Executive Order No. 11658, as amended, establishing the Missouri River Basin Commission.

(v) Executive Order No. 11659, as amended, establishing the Mississippi River Basin Commission.

[¶ 12,166]

SEC. 5. *Special Provisions Relating to Emergency Preparedness and Mobilization Functions.*

(a) Executive Order No. 10480, as amended, is further amended by adding thereto the following new Sections:

"Sec. 609. Effective October 1, 1977, the Secretary of Energy shall exercise all authority and discharge all responsibility herein delegated to or conferred upon (a) the Atomic Energy Commission, and (b) with respect to petroleum, gas, solid fuels and electric power, upon the Secretary of the Interior.

"Sec. 610. Whenever the Administrator of General Services believes that the functions of an Executive agency have been modified pursuant to law in such manner as to require the amendment of any Executive order which relates to the assignment of emergency preparedness functions or the administration of mobilization programs, he shall promptly submit any proposals for the amendment of such Executive orders to the Director of the Office of Management and Budget in accordance with the provisions of Executive Order No. 11030, as amended.".

(b) Executive Order No. 11490, as amended, is further amended by adding thereto the following new section:

"Sec. 3016. Effective October 1, 1977, the Secretary of Energy shall exercise all authority and discharge all responsibility herein delegated to or conferred upon (a) the Federal Power Commission, (b) the Energy Research and Development Administration, and (c) with respect to electric power, petroleum, gas and solid fuels, upon the Department of the Interior.".

[¶ 12,167]

SEC. 6. This Order shall be effective as of October 1, 1977, the effective date of the Department of Energy Organization Act pursuant to the provisions of Section 901 thereof and Executive Order No. 12009 of September 13, 1977, and all actions taken by the Secretary of Energy on or after October 1, 1977, which are consistent with the foregoing provisions are entitled to full force and effect.

.01 43 F. R. 4957 (February 7, 1978).

[The next page is 12,171.]

Attachment D.

[redacted]

FEDERAL PREPAREDNESS CIRCULAR

federal emergency management agency
Washington, D.C. 20472

FPC 24

April 4, 1980

TO: Heads of Federal departments and agencies

SUBJECT: The National Defense Executive Reserve (NDER)

1. Purpose. This circular transmits the policies and procedures manual for the National Defense Executive Reserve (NDER) program. The manual provides guidance for establishing NDER units and for recruitment, appointment, and training of members of the Reserve and gives instructions for recordkeeping and reports required by the Director, Federal Emergency Management Agency (FEMA), from departments and agencies that sponsor NDER units.

2. Cancellation. OEP Circular 9700.2B, NDER Policies and Procedures Manual, dated May 9, 1972, is canceled.

3. Background. Authority for the NDER program is contained in the following documents:

a. The Defense Production Act of 1950, as amended (section 710(e)) and

b. Executive Order 11179 of September 22, 1964, as amended by Executive Order 12148 of July 20, 1979.

4. Policy intent. It is the intent of the NDER program to establish a nucleus Executive Reserve to serve in executive positions in the Federal Government in times of national emergency.

5. Applicability and scope. The provisions of the attached manual apply to Federal departments and agencies that sponsor or propose to sponsor NDER units and that are assigned emergency responsibilities under Executive Order 11490, as amended.

6. Responsibilities. The Federal departments and agencies designated in Executive Order 11490, as amended, are responsible for applying the provisions of this circular and the attached manual in the administration of the NDER program.

7. Reports. The public-use report prescribed by this circular, FEMA Form 85-3, National Defense Executive Reserve Personal Qualifications Statement, has been cleared with the Office of Management and Budget (OMB) and assigned OMB Approval Number 026-R0001.

8. Attachment. The NDER policies and procedures manual is attached.

John W. Macy, Jr.
John W. Macy, Jr
Director

Attachments

Distribution: B(HqDivDirs)
G(FldDivDirs)
Federal Dept. & Agency Emergency Coordinators
Selected Congressional Committees

PARAGRAPH PAGE

TABLE OF CONTENTS

1. Introduction 1

2. Nature and scope of the NDER 1

3. Administration and establishment of NDER units 1

4. Membership requirements 2

5. Procedures for designating members 3

6. ~~Reservists' assignment instructions~~ 4

7. Conflict-of-interest provisions 4

8. Orientation and training 4

9. Activating Reservists 5

10. ~~Nonemergency employment of Reservists~~ 5

11. Redesignation, transfer, and termination 5

12. Records 6

13. Reports 7

APPENDIXES

A - Defense Production Act, section 710(e) A-1

B - Executive Order 11179 B-1

• C - FEMA Form 85-3, National Defense Executive Reserve Personal Qualifications Statement C-1

• D - FEMA Form 13-3, Statement of Understanding D-1

• E - Post Employment Conflict-of-Interest Regulations E-1

F - FPM 910-9 (The National Defense Executive Reserve) and FPM Supplement 990-3, Part M-333 (Noncompetitive Selection for Appointment) F-1

G - NDER Units G-1

April 4, 1980

FPC-24
Attachment A

THE NATIONAL DEFENSE EXECUTIVE RESERVE (NDER)

Policies and Procedures

1. Introduction.

a. The Defense Production Act of 1950, as amended, section 710(e), authorizes the President to establish and train a nucleus Executive Reserve. This section is reproduced in Appendix A.

b. Executive Order 11179, dated September 22, 1964, as amended, provides for the establishment and administration of the National Defense Executive Reserve (NDER). It is reproduced in Appendix B.

c. The NDER is a Federal Government program that provides a reserve of highly qualified individuals from industry, organized labor, professional groups, the academic community, and, to some extent, within Government, to serve in executive positions in the Federal Government in time of national emergency.

d. This manual explains the basic purpose and policies of the NDER and prescribes standards and procedures for administration of the program.

2. Nature and scope of the NDER.

a. The NDER is a select group of civilians qualified on the basis of managerial, professional, and technical skills, highly expert in their fields, and otherwise eligible for appointment as Reservists.

b. The NDER exemplifies the cooperation between the public and private sectors of our society. Reservists give part of their time on a voluntary basis preparing to serve the Nation in time of crisis. Their employers agree to the standby appointments and to their participation in the program.

3. Administration and establishment of NDER units.

a. The Director of the Federal Emergency Management Agency (FEMA), (hereinafter called the Director), is charged with developing policies for the NDER and with its administration. This includes the provision of appropriate standards for recruitment and monitoring of the activities of NDER units. The NDER program shall be coordinated by an NDER Coordinator on the FEMA staff.

b. Under section 3 of Executive Order 11179, the Director may use the services of other departments or agencies to maintain membership rosters and develop training programs and materials.

c. An Interagency NDER Committee, composed of representatives of the heads of departments and agencies that sponsor NDER units and chaired by

FEMA,will advise the Director on matters concerning the NDER program.

d. The head of any department or agency with emergency preparedness responsibilities under Executive Order 11490, as amended, may establish a unit of the Executive Reserve in that department or agency, after receiving concurrence from the Director.

e. The following criteria shall apply in the establishment and maintenance of NDER units:

(1) NDER units shall be established for the purpose of performing functions in time of a national emergency. These functions shall be defined by the department or agency head with the Director's concurrence.

(2) Functions justifying the use or employment of Reservists in an emergency shall be directly related to one of the following: advice or assistance in the making of executive decisions of the department or agency, direction of a necessary emergency public program of the department or agency, and performance or assistance in the performance of a highly difficult or crucial program or task arising out of the emergency.

(3) The expected functions of members of the NDER unit shall be described by an emergency organizational chart, functional descriptions, and staffing tables related, as appropriate, to the existing department or agency organization and augmentation plans. These documents must be approved by the head of the department or agency. In preparing them, agencies should follow the principle that Reservists should not be assigned to positions filled by regular employees.

(4) Each NDER unit shall be directed by a department or agency official designated responsible for it by the head of the agency. The name of the designated official shall be furnished to FEMA.

f. NDER units may be disestablished by the department or agency head concerned. This action must be reported to the Director.

4. Membership requirements. The following standards apply to selection and designation of Reservists:

a. Candidates shall be U.S. citizens.

b. There shall be no discrimination in selecting members because of race, color, religion, sex, age, or national origin. Positive steps shall be taken to ensure the realization of this policy as an extension of the Government's equal employment opportunity program.

c. People with military reserve or national guard obligations and Federal, State and local government officials with emergency assignments shall not be considered for NDER membership. Similarly, people campaigning for or elected to public office shall not be considered or appointed in the NDER because of the obligation they have (or would have if elected) to their constituencies.

d. Prospective members must possess the qualifications required to perform their planned emergency assignments.

5. Procedures for designating members. The following steps shall be taken in designating members of the NDER:

a. The sponsoring department or agency shall ask the NDER Coordinator to check the Central Register maintained by FEMA to see if a prospective member's name is already listed and provide FEMA at that time with the name and birth date of the candidate.

b. Upon initial name clearance, the sponsoring department or agency shall ask the candidate to complete FEMA Form 85-3, National Defense Executive Reserve Personal Qualifications Statement. A copy of the form is at Appendix C.

c. The sponsoring department or agency shall then complete a security name check on each candidate.

d. Upon completing the security name check, the sponsoring department or agency shall complete its part of the FEMA Form 85-3 and submit it to the NDER Coordinator.

e. The NDER Coordinator shall review the form to ensure that the candidate meets all basic membership qualifications. If so, the NDER Coordinator will enter the data on the form into the NDER Central Register and return the form to the department or agency indicating action taken.

f. The sponsoring department or agency shall ask the candidate to complete all other necessary forms, such as security forms and the Statement of Understanding, FEMA Form 13-3, which appears in Appendix D. The form must be completed by the candidate and the candidate's employer.

g. When the candidate returns the completed forms, the sponsoring department or agency shall conduct a security investigation of the candidate in accordance with its current security regulations.

h. When the sponsoring department or agency has fully approved the candidate, the head of that department or agency shall issue a Certificate of Membership and a letter to the candidate informing him or her of the designation. A copy of the letter of designation shall be sent to the NDER Coordinator.

i. Terms of designation of members shall not exceed 3 years. Procedures for redesignating members for additional terms of service are given in paragraph 11 of this manual.

6. Reservists' assignment instructions. Reservists shall be assigned to specific emergency positions included in staffing tables and functional descriptions that are approved by the head of the sponsoring department or agency and that are in turn based on emergency functions. Reservists shall also be assigned to specific offices, with consideration given to the proximity of the office to the member's home or place of business to facilitate reporting for training or for duty.

7. Conflict-of-interest provisions.

a. Reservists are not subject to any conflict-of-interest provisions of law during training periods because they are not considered officers or employees of the Federal Government during those times.

b. As conflict-of-interest provisions may apply when Reservists are called to full-time Federal employment, sponsoring departments and agencies shall inform their Reservists of the provisions of the following: Conflict-of-Interest Statutes (18 USC 201-209), the Ethics in Government Act of 1978, and the Office of Personnel Management Post Employment Conflict-of-Interest regulations. A copy of the latter document is at Appendix E. If sponsoring departments or agencies know of specific legislation concerning the financial interest of their employees, they should also inform their Reservists of these provisions.

c. In informing Reservists of these provisions, departments and agencies may note that in a national emergency the Director plans to request action to waive them. Specifically, waivers would probably be requested with respect to 18 USC 208 (activities of Federal employees) and 18 USC 207 (postgovernment employment).

d. Inquiries about conflict-of-interest and the Ethics in Government Act should initially be referred to the sponsoring department or agency's Ethics Counselor.

8. Orientation and training.

a. NDER program officials shall give each newly designated Reservist a thorough orientation covering the overall NDER program, the specific role of his or her unit or assignment, and the emergency functions of the sponsoring department or agency.

b. Reservists should also be kept abreast of their expected duties and of developments in the unit and the department or agency preparedness programs by correspondence and by attendance at formal training programs at least annually. The following activities would be suitable for these formal training programs.

(1) Briefings on current policies, plans, and programs of the Government relating to national security;

(2) Reports of current department or agency programs bearing on the Reservist's assigned emergency responsibilities;

(3) Current instructions on Reservists' assignments, reporting requirements, and similar matters;

(4) Seminars to stimulate discussion and exchanges of ideas between Reservists and department or agency representatives in their professional fields; and

(5) Exercises and tests involving actual experience by the Reservists in the types of actions they would be called on to perform in an emergency.

9. Activating Reservists.

a. In a national emergency, the Director is responsible for advising the President as to whether Reservists should be called to duty. Therefore, departments and agencies seeking to activate their Reservists should present their recommendations to the Director.

b. Authority for appointing Reservists to positions after they have been activated by the President in a national emergency may be found in the Federal Personnel Manual, Part 910-9. Appointments in the event of an attack on the United States are addressed in the Federal Personnel Manual Supplement 990-3, Part M-333. Both documents appear in Appendix F of this manual.

10. Nonemergency employment of Reservists. Departments and agencies wishing to appoint individual Reservists as Federal employees or consultants at any time other than a national emergency must follow established Office of Personnel Management procedures applying to all prospective Federal employees.

11. Redesignation, transfer, and termination.

a. Only Reservists who have attended at least one training session during the term that is ending or who have otherwise demonstrated tangible support of the program will be redesignated.

b. Sponsoring departments or agencies wishing to redesignate a Reservist must inform the NDER Coordinator and give the NDER Coordinator the following information:

(1) The Reservist's name, home address, and home telephone (including ZIP and area codes); and,

(2) The Reservist's employer, position title, place of employment, address of employment, and business phone (including ZIP and area codes).

c. If the Reservist has changed employers since the previous designation, the sponsoring department or agency must obtain a current-Statement of Understanding completed by the Reservist and the new employer.

d. Departments or agencies wishing to transfer a Reservist from one unit to another must obtain advance concurrence from the losing department or agency, the Reservist, and the Reservist's employer. The gaining agency shall notify the NDER Coordinator in writing of this transfer.

e. Reservists may resign at any time. Agencies may terminate an individual's membership when it is determined that the Reservist's services are no longer required. Membership terminates automatically when a term expires without redesignation or when the Reservist fails to meet any of the basic membership requirements. A copy of any letter of resignation or termination shall be given to the NDER Coordinator.

f. A Reservist who has served with distinction and who is not redesignated for any reason may be placed in Reservist Emeritus Status. These Reservists may participate in training programs or other activities by which units benefit from their knowledge and experience. However, Emeritus Reservists will not be given emergency assignments and would not be called to duty in a national emergency without their consent. Departments and agencies shall inform the NDER Coordinator when Reservists are placed in this category.

12. Records.

a. The NDER Coordinator shall maintain a central register of all NDER members and candidates. The register will be used to compile periodic and special reports and prevent duplication in NDER recruiting. If a candidate is removed from consideration, the NDER Coordinator should be notified promptly.

b. Departments and agencies sponsoring NDER units shall keep records that will enable them to report promptly the following types of information:

(1) Agency professional and clerical staff-years and costs directly and indirectly chargeable to NDER activities;

(2) Other agency costs directly chargeable to NDER activities, including specific costs for staff travel, member travel, printing, and security investigations;

(3) Nonappropriated funds collected and disbursed by Reservists in support of their training sessions;

(4) Numbers of active members, female active members, minority active members, Emeritus members, new members added in the past year, members terminated in the past year, candidates under consideration, members redesignated in the past year, and redesignations pending;

(5) Numbers of active members falling into the following categories: businesses with more than 500 employees, businesses with fewer than 500 employees, Federal Government, State and local government, organized labor, academic community, self-employed, retired, and other;

(6) Specific emergency assignments of members;

(7) Number of attendees at training programs, including numbers of Reservists, Federal representatives, State and local government officials, and guests;

(8) The purpose, highlights, and accomplishments of training programs;

(9) The qualifications of individual members; and

(10) The name of the individual or organization that recommended the member as an NDER candidate.

13. Reports. Departments and agencies sponsoring units shall submit the following reports to the Director, who is required to report annually to the President on the NDER program:

a. Quarterly reports. Within 10 workdays after the close of each quarter, departments and agencies shall inform the NDER Coordinator in writing of:

(1) The number of active and Emeritus members in each unit at the end of that quarter; and

(2) Training activity in the last quarter and training plans for the coming quarter, including a description of the program; its location; the number of Reserve, Federal, State, local, and guest participants; and the dates. FEMA will give all participating agencies quarterly summaries of these reports.

b. Annual reports. By the last workday of October, sponsoring departments and agencies shall give FEMA a written evaluation of their NDER activities during the past fiscal year. FEMA will issue instructions on preparing this report by September 15 of the year to be covered in the report.

APPENDIX A

THE DEFENSE PRODUCTION ACT OF 1950, AS AMENDED

Section 710(e)

The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and per diem in lieu of subsistence, in accordance with title 5 of the United States Code (with respect to individuals serving without pay, while away from their homes or regular places of business), for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statutes (5 U.S.C. 99).

APPENDIX B

Executive Order 11179

Providing for the National Defense Executive Reserve

By virtue of the authority vested in me by the Constitution and statutes of the United States, including Sections 703(a) and 710(e) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2153(a), 2160(e)), and as President of the United States, it is hereby ordered as follows:

Section 1. There shall be in the Executive Branch of the Government a National Defense Executive Reserve composed of persons selected from various segments of the civilian economy and from government for training for employment in executive positions in the Federal Government in the event of the occurrence of an emergency that requires such employment.

Sec. 2. The Director of the Office of Emergency Planning (hereinafter referred to as the Director) shall administer the Executive Reserve program; coordinate the activities of other agencies in establishing units of the Reserve; provide for appropriate standards of recruitment and training; approve prospective members of the Executive Reserve; and issue necessary rules and regulations in connection with the program.

Sec. 3. The Director, in carrying out his responsibilities under this order, may utilize the services of other departments and agencies in the maintenance of agency and centralized rosters and in the development of training programs and materials.

Sec. 4. (a) The head of any department or agency of the Government (hereinafter referred to as a Secretary), designated by the Director after appropriate consultation, may establish a unit of the Executive Reserve (hereinafter referred to as Executive Reserve Units) in his respective department or agency.

(b) Executive Reserve Units existing under Executive Order No. 10660 of February 15, 1956, as amended, on the date of this order shall henceforth be deemed to be Executive Reserve Units under this order.

Sec. 5. Membership in Executive Reserve Units shall be subject to the following:

(1) Subject to the provisions of this order, particularly paragraph (4) of this section, an individual who on the date of this order was a member of an Executive Reserve Unit under Executive Order No. 10660 may continue to serve therein without further designation.

(2) A Secretary desiring to designate an individual to serve as a member of an Executive Reserve Unit of his department or agency shall submit the name of the prospective designee to the Director for approval. Upon approval of the prospective designee by the Director, the Secretary concerned may designate the individual as a member of the Executive Reserve Unit of his department or agency.

(3) An individual whose membership in an Executive Reserve Unit has at any time expired, or is at any time about to expire, under the terms of this order may be redesignated as a member under the procedure set forth in paragraph (2) of this section.

(4) Without limiting the authority of the respective Secretaries to terminate the membership of any individual in an Executive Reserve Unit at any time, it is directed that continued service of a member under paragraph (1) of this section, and the designation or redesignation of a member under paragraph (2) or (3) of this section, respectively (including any designation of an individual occurring at the expiration of his continued service under paragraph (1)), shall be for a period not to exceed three years.

Sec. 6. Activities of any person by reason of his continuance, designation, or redesignation as an Executive Reservist under this order shall not include acting or advising on any matter pending before any department or agency but shall be limited to receiving training for mobilization assignments under the Reserve program.

Sec. 7. The Director shall report to the President annually, and at such other times as may be appropriate, on the status and operation of the Executive Reserve program.

Sec. 8. Executive Order No. 10660 of February 15, 1956, entitled "Providing for the Establishment of a National Defense Executive Reserve," as amended, is hereby superseded.

Lyndon B. Johnson

The White House,
September 22, 1964.

April 4, 1980

FPC-24
Attachment A

APPENDIX C

FEDERAL EMERGENCY MANAGEMENT AGENCY

NATIONAL DEFENSE EXECUTIVE RESERVE PERSONAL QUALIFICATIONS STATEMENT

O.M.B. No. 036 R0001
Expiration Date August 1984

RETURN ORIGINAL TO (SPONSORING AGENCY)

1 NAME (LAST) (FIRST) (MIDDLE) ☐ MR ☐ MRS ☐ MISS ☐ MS

OTHER TITLES USED (Gen., Dr., etc.) __________

2 HOME ADDRESS (CITY, STATE AND ZIP CODE)

3 PREFERRED MAILING ADDRESS ☐ HOME ☐ BUSINESS

4 SOCIAL SECURITY NUMBER

5 ARE YOU A CITIZEN OF THE UNITED STATES? ☐ YES ☐ NO

6 BIRTH DATE (MONTH, DAY, YEAR)

7 BIRTHPLACE

8 HOME TELEPHONE (INCLUDING AREA CODE)

9 BUSINESS TELEPHONE (INCLUDING AREA CODE)

10 HIGH SCHOOL GRADUATE? ☐ YES ☐ NO

11 NAME OF COLLEGE OR UNIVERSITY	DATES ATTENDED		MAJOR AND OTHER PRINCIPAL SUBJECTS	DEGREE RECEIVED	YEAR RECEIVED
	FROM	TO			

12 SKILL AREAS (SELECT PRIMARY AND SECONDARY SKILLS FROM LISTING ON PAGE 3 OF THIS FORM)

12A PRIMARY

12B SECONDARY

13 EMPLOYMENT EXPERIENCE (START WITH YOUR MOST RECENT POSITION AND WORK BACK AT LEAST 5 YEARS. IF MORE SPACE IS REQUIRED CONTINUE ON A SEPARATE SHEET OF PAPER WITH YOUR NAME AT THE TOP AND GIVE SIMILAR INFORMATION)

13A NAME AND LOCATION OF ESTABLISHMENT (IF RETIRED PLEASE INDICATE)

BUSINESS TYPE (SELECT FROM LISTING ON PAGE 3 OF THIS FORM)

NUMBER OF EMPLOYEES

YOU SUPERVISE

IN YOUR ESTABLISHMENT

DATES OF EMPLOYMENT

FROM

TO PRESENT

NAME AND TITLE OF YOUR SUPERVISOR

TITLE OF YOUR POSITION

DESCRIPTION OF WORK (DESCRIBE YOUR SPECIFIC DUTIES)

13B NAME AND LOCATION OF ESTABLISHMENT (IF RETIRED, PLEASE INDICATE)

BUSINESS TYPE (SELECT FROM LISTING ON PAGE 3 OF THIS FORM)

NUMBER OF EMPLOYEES

YOU SUPERVISE

IN YOUR ESTABLISHMENT

DATES OF EMPLOYMENT

FROM

TO

NAME AND TITLE OF YOUR SUPERVISOR

TITLE OF YOUR POSITION

DESCRIPTION OF WORK (DESCRIBE YOUR SPECIFIC DUTIES)

FEMA FORM 85-3 (12/79)

IST BELOW ANY ACTIVITIES AND MEMBERSHIPS (SUCH AS CPA, BAR MEMBERSHIP, PROFESSIONAL AND LEARNED SOCIETIES, TRADE ASSOCIATIONS, ETC.)

15 PREVIOUS GOVERNMENT EXPERIENCE (FEDERAL, STATE, OR LOCAL. ALSO INCLUDE WOC (WITHOUT COMPENSATION) POSITIONS BUT EXCLUDE COMMITTEE MEMBERSHIPS)

FROM	TO	AGENCY

16 WOULD YOU SERVE ANYWHERE IN THE UNITED STATES IF CALLED TO ACTIVE DUTY AS AN EXECUTIVE RESERVIST? (IF "NO" SPECIFY ACCEPTABLE GEOGRAPHIC AREA(S) IN WHICH YOU WOULD BE WILLING TO SERVE) ☐ YES ☐ NO

17 DO YOU HAVE ANY OBLIGATION THAT MIGHT INTERFERE WITH AN EXECUTIVE RESERVE CALL UP? (SUCH AS MILITARY, CIVIL DEFENSE, ELECTED PUBLIC OFFICE, ETC.) *(If yes, specify.)* ☐ YES ☐ NO

18 APPLICANT'S SIGNATURE (SIGN IN INK)

DATE

19 SPONSORING AGENCY PROPOSED NDER ASSIGNMENT

OSITION TITLE

19B GEOGRAPHIC LOCATION (SPECIFY) ☐ NATIONAL OFFICE ☐ REGION (SPECIFY)

19C BRIEF DESCRIPTION OF DUTIES

20 DATE OF PRECLEARANCE SECURITY NAME CHECK

21. REQUESTING OFFICIAL (NAME AND TITLE)

DATE

22 ACTION BY FEMA RECRUITMENT OF CANDIDATE

☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE ATTACHED MEMO)

23 NDER COORDINATOR

PRIVACY ACT INFORMATION

THE SPONSORING AGENCY IS AUTHORIZED TO ESTABLISH AND RECRUIT FOR A NATIONAL DEFENSE EXECUTIVE RESERVE BY THE DEFENSE PRODUCTION ACT OF 1950 (50 USC APP. 2153(A) AND 2160(E)) AND E.O. 11179 OF SEPTEMBER 22, 1964). THE INFORMATION REQUESTED IS NEEDED TO EVALUATE YOUR QUALIFICATIONS TO SERVE AND TO PROPERLY PLACE YOU IN THE PROGRAM, AND IN THE ROUTINE MANAGEMENT OF THE NDER.

INFORMATION FROM THIS FORM MAY BE PUBLISHED IN A DIRECTORY OF NDER MEMBERS. THE DIRECTORY WOULD ONLY BE MADE AVAILABLE TO FEDERAL OFFICIALS WITH RESPONSIBILITY FOR THE NDER PROGRAM. INFORMATION FROM THIS FORM MAY ALSO BE DISCLOSED AS A ROUTINE USE TO A MEMBER OF CONGRESS OR TO A CONGRESSIONAL STAFF MEMBER RESPONDING TO A REQUEST MADE BY YOU.

COMPLETION OF THIS FORM IS VOLUNTARY. HOWEVER, FAILURE TO COMPLETE IT WILL PREVENT CONSIDERATION OF AN APPLICANT FOR MEMBERSHIP IN THE NATIONAL DEFENSE EXECUTIVE RESERVE.

April 4, 1980

FPC-24
Attachment A

SKILL AREAS

(SELECT APPROPRIATE AREA(S) AND ENTER IN ITEMS 12A AND 12B OF THIS FORM)

- ARCHITECTURE AND ENVIRONMENTAL DESIGN
  - ARCHITECTURE
  - CITY PLANNING
  - OTHER (SPECIFY)
- BIOLOGICAL SCIENCES
  - BACTERIOLOGY
  - BIOLOGY
  - BOTANY
  - OTHER (SPECIFY)
- BUSINESS
  - ACCOUNTING
  - BANKING AND FINANCE
  - HOTEL AND RESTAURANT MANAGEMENT
  - INSURANCE
  - INTERNATIONAL BUSINESS
  - INVESTMENTS AND SECURITIES
  - LABOR AND INDUSTRIAL RELATIONS
  - MANAGEMENT
  - MARKETING AND PURCHASING
  - OPERATIONS RESEARCH
  - PERSONNEL MANAGEMENT
  - PUBLIC UTILITIES
  - REAL ESTATE
  - TRANSPORTATION
  - OTHER (SPECIFY)
- COMMUNICATIONS
  - JOURNALISM
  - RADIO AND TELEVISION
  - OTHER (SPECIFY)
- COMPUTERS AND INFORMATION SCIENCES
- EDUCATION
- ENGINEERING
  - AERONAUTICAL
  - ARCHITECTURAL
  - CHEMICAL
  - CIVIL
  - ELECTRICAL
  - ENVIRONMENTAL
  - INDUSTRIAL
  - MECHANICAL
  - OTHER (SPECIFY)
- HEALTH PROFESSIONS
  - DOCTOR
  - NURSE
  - NUTRITION
  - PHARMACOLOGY
  - TECHNICIAN
  - OTHER (SPECIFY)
- LAW
- NATURAL RESOURCES
  - AGRICULTURE
  - NATURAL RESOURCES MANAGEMENT
  - OTHER (SPECIFY)
- PUBLIC AFFAIRS
  - LAW ENFORCEMENT
  - PUBLIC ADMINISTRATION
  - OTHER (SPECIFY)
- SCIENCES
  - CHEMISTRY
  - GEOLOGY
  - MATHEMATICS
  - METALLURGY
  - METEOROLOGY
  - PHYSICS
  - STATISTICS
  - OTHER (SPECIFY)
- SOCIAL SCIENCES
  - ECONOMICS
  - INTERNATIONAL RELATIONS
  - OTHER (SPECIFY)

BUSINESS TYPES

(SELECT APPROPRIATE TYPE(S) AND ENTER IN ITEM 13 OF THIS FORM)

- AGRICULTURE
  - CROPS
  - FORESTRY
  - LIVESTOCK
  - SERVICES
  - OTHER (SPECIFY)
- COMMUNICATION
  - TELEPHONE
  - OTHER (SPECIFY)
- CONSTRUCTION
  - BUILDING
  - OTHER THAN BUILDING
  - SPECIAL TRADE
  - OTHER (SPECIFY
- FINANCE
  - BANKING
  - CREDIT AGENCIES
  - STOCK BROKERAGE
  - OTHER (SPECIFY)
- INSURANCE
- MANUFACTURING
  - APPAREL AND FABRICS
  - CHEMICALS
  - ELECTRICAL AND ELECTRONIC MACHINERY/ EQUIPMENT/SUPPLIES
  - FABRICATED METAL
  - FOOD
  - FURNITURE AND FIXTURES
  - LEATHER
  - LUMBER AND WOOD
  - MACHINERY
  - MEASURING AND CONTROLLING INSTRUMENTS
- MANUFACTURING (CONTINUED)
  - PAPER
  - PETROLEUM REFINING
  - PRIMARY METALS
  - PRINTING AND PUBLISHING
  - RUBBER AND PLASTICS
  - STONE CLAY GLASS AND CONCRETE
  - TEXTILE
  - TOBACCO
  - TRANSPORTATION EQUIPMENT
  - OTHER (SPECIFY)
- MINING
  - COAL
  - METAL
  - NONMETALLIC
  - PETROLEUM AND GAS
  - OTHER (SPECIFY)
- PUBLIC ADMINISTRATION
  - ECONOMIC
  - ENVIRONMENTAL AND HOUSING
  - FINANCE
  - GENERAL GOVERNMENT
  - HUMAN RESOURCES
  - INTERNATIONAL
  - JUSTICE
- REAL ESTATE
- RETAIL TRADE
  - APPAREL
  - AUTOMOTIVE DEALERS AND GASOLINE STATIONS
  - BUILDINGS MATERIALS HARDWARE AND GARDEN SUPPLY
  - EATING AND DRINKING PLACES
- RETAIL TRADE (CONTINUED)
  - FOOD
  - FURNITURE
  - GENERAL MERCHANDISE
  - OTHER (SPECIFY)
- SERVICES
  - AUTOMOTIVE REPAIR
  - BUSINESS
  - EDUCATIONAL
  - ELECTRIC
  - GAS
  - HEALTH
  - LEGAL
  - LODGING PLACES
  - MISCELLANEOUS REPAIR
  - MOTION PICTURES
  - PERSONAL
  - RECREATION
  - SANITARY
  - SOCIAL
  - OTHER (SPECIFY)
- TRANSPORTATION
  - AIR
  - LOCAL
  - MOTOR FREIGHT AND WAREHOUSING
  - RAILROAD
  - US POSTAL SERVICE
  - WATER
  - OTHER (SPECIFY)
- WHOLESALE TRADE
  - DURABLE
  - NONDURABLE
- NONCLASSIFIABLE ESTABLISHMENTS (SPECIFY)

Exhibit F-4

[illegible]

April 4, 1980

FPC-24
Attachment A

APPENDIX D
NATIONAL DEFENSE EXECUTIVE RESERVE

Statement of Understanding

As a member of the National Defense Executive Reserve unit of the ______________________________, I accept the following responsibilities:

– While a member of the Reserve, I will maintain close liaison with the Government program to which I am assigned. I will also attend scheduled training meetings and exercises whenever possible.

– In the event of a national emergency, I intend to be available for full time Government employment within my assigned program.

– I will serve as a member of the Reserve without compensation. If I am called to full time Government employment in a national emergency, I will have the option of serving with or without compensation, provided that legal authority for such service then exists.

– I understand my appointment will be for a period of three years, may be extended for additional terms, and may be terminated at any time by me or the sponsoring agency.

– If I become unavailable for full time Government employment, I will so inform the Reserve unit to which I am assigned.

– My employer concurs with the commitment I am making to the National Defense Executive Reserve.

Name of Reservist ______________________________ Date ______________
(type or print)

Signature of Reservist ______________________________

Name of Employer ______________________________ Date ______________
(type or print)

Title of Employer's Representative ______________________________

Signature of Employer's Representative ______________________________

Exhibit F-4

[redacted]

April 4, 1980

FPC-24
Attachment A

APPENDIX D
NATIONAL DEFENSE EXECUTIVE RESERVE

Statement of Understanding

As a member of the National Defense Executive Reserve unit of the ____________________, I accept the following responsibilities:

- While a member of the Reserve, I will maintain close liaison with the Government program to which I am assigned. I will also attend scheduled training meetings and exercises whenever possible.

- In the event of a national emergency, I intend to be available for full time Government employment within my assigned program.

- I will serve as a member of the Reserve without compensation. If I am called to full time Government employment in a national emergency, I will have the option of serving with or without compensation, provided that legal authority for such service then exists.

- I understand my appointment will be for a period of three years, may be extended for additional terms, and may be terminated at any time by me or the sponsoring agency.

- If I become unavailable for full time Government employment, I will so inform the Reserve unit to which I am assigned.

- My employer concurs with the commitment I am making to the National Defense Executive Reserve.

Name of Reservist ____________________ Date __________
(type or print)

Signature of Reservist ____________________

Name of Employer ____________________ Date __________
(type or print)

Title of Employer's Representative ____________________

Signature of Employer's Representative ____________________

Coordination with Other Agencies, States and Localities, and the Private Sector

Question 14. With regard to question 13, would you describe any additional statutory authority that might be required to effectuate revitalization of the Executive Manpower Reserves? In particular, would you address any additional statutory authority that would be required to facilitiate participation in the Reserves by energy producers?

Answer: While there has not been a final judgment on this issue, it appears that effective use of the reserves by DOE would be assisted by new or amended legislation dealing with the subjects of conflict of interest, antitrust and, perhaps, advisory committees. Specific proposals dealing with the Defense Production Act, the Department of Energy Organization Act, and the U.S. criminal code, among others, are being examined by DOE with the Federal Emergency Management Agency (FEMA) and the Emergency Mobilization Preparedness Board (EMPB).

As noted in the response to question 13, Reserve units may employ persons serving in either of two capacities: National Defense Executive Reservists (NDERs) or as special government employees serving without compensation (WOCs). In either case, such persons' activities, and potentially their ability or willingness to serve, would be constrained by present conflict of interest statutes. There are two types of conflict of interest laws which currently apply to all NDERs and WOCs. The first are the criminal statutes, set forth in 18 U.S.C. sections 202-209; the second are the financial disclosure requirements of 5 U.S.C. sections 201-211.

The major criminal provision is 18 U.S.C. section 208 which imposes a fine of $10,000 and/or a prison term of as much as two years upon an employee, including a special employee of the federal government, who participates (including rendering advice) in a matter before the government in which he, his spouse, minor child, partner, an organization with whom he has an arrangement concerning employment, has a financial interest. Most WOCs are paid employees of their firms even while they are serving as special government employees; they therefore are prohibited by this provision from advising on matters in which their companies have a financial interest. Activated civilian NDERs face similar problems even if they assume salaried positions, as presumably they would have pension rights or arrangements to return to their former employers. This provision is the most significant constraint on the use of WOCs and NDERs during emergencies.

It arguably is possible for a WOC or an activated NDER to provide advice to federal officials or perform duties without violating the conflict of interest provisions and antitrust laws by avoiding participation in any decisions affecting a firm in which he holds a financial interest (including the firm employing him). However, as a practical matter it may be difficult to fully utilize the services of industry personnel during an energy crisis in a manner which assures such avoidance. Moreover, industry has shown itself to be extremely sensitive to the risks.

Lastly, the Federal Advisory Committee Act and other statutes, rules and regulations pertaining to advisory committees present problems in seeking and obtaining collective advice. Even after NDERs have been activated, continuing or contingent ties to their former employers could raise issues of applicability of such laws.

Supporting Defense Preparedness

Question 15: With regard to plans to support defense preparedness,

a. Would you describe in general terms those plans?

Answer: The Department of Energy has given the highest priority to establishing the means to ensure that our defense capability is not impaired through inadequate energy supplies.

Our strategy to achieve this purpose is to rely primarily on the marketplace to respond to national defense needs. Also, both private and government-owned stocks are effective in dealing with national security threats, and we are working to remove disincentives for private stockbuilding. The Naval Petroleum Reserves are also producing at the maximum efficient rate and will sell the Government's share of production to the Department of Defense to help them establish secure sources of supply.

Several plans to provide specific support of defense preparedness are under development, including National Oil Board plans to support the U.S. commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization. We are also developing plans to implement the Defense Production Act requirements to ensure energy supplies for defense needs. In addition, we are participating with the Department of Defense in planning and testing various programs, including the Military Traffic Management Command's Contingency Response Program, the Fuelex exercises which test emergency civilian-government cooperation and continuity of government.

Supporting Defense Preparedness

Question 15: With regard to plans to support defense preparedness,

b. Would you describe in detail plans to support the National Oil Board, including the United States commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization?

Answer: The United States is obligated by NATO to respond to various peacetime and wartime conditions affecting members of the North Atlantic Treaty Organization (NATO). Within the NATO organization, the Petroleum Planning Committee (PPC) will develop plans to distribute available oil supplies among NATO members if there are supply shortages during crisis or war. A decision of the North Atlantic Council (NAC) would activate those plans.

The NATO Wartime Oil Organization (NWOO) is NATO's emergency petroleum organization and would implement plans activated by the NAC. Like the International Energy Agency (IEA), NWOO's international operations are highly dependent on the support of national emergency programs. NATO refers to national oil authorities such as National Oil Boards (NOB), analagous to the National Emergency Supply Organizations (NESO) of the IEA. When the NWOO is operational, NOB's provide the NWOO with information on oil requirements and available supplies, implement NATO's international oil supply program pursuant to national authority and act as the U.S. liaison agency for energy contacts with the NATO countries.

The Office of Energy Emergencies (EE) has established an intra-agency task force to coordinate development of the NOB operations manual containing the organizational and operating procedures required to meet our NATO commitment (with emphasis on NATO oil supply and distribution schemes). We expect to complete an interim manual by June, after which it will be circulated to an interagency group for comment. After the necessary changes, we hope to make an internal DOE test of this plan during August 1982. This DOE test will provide a basis to prepare for participation in a NATO-sponsored test early in 1983, which will require a simulation of the U.S. NOB operations.

Supporting Defense Preparedness

Question 15: With regard to plans to support defense preparedness,

c. Would you describe in detail plans to implement the Defense Production Act Requirements to ensure energy supplies for defense needs?

Answer: The Plans Development and Testing Division, Office of Energy Contingency Planning is assembling an Interagency Task Group to prepare a comprehensive procedures manual to replace current regulations for allocating energy to the DOD under the DPA. This manual will be more comprehensive in scope than the current regulations and will identify the action offices, authorities, and the data needed for expeditious processing of DPA requests. In the meantime, requests for DPA assistance for priority energy requirements are received and expedited by DOE's Office of Energy Emergencies. Our primary course of action is to support DOD requests through persuasion and negotiation in the marketplace without actually invoking the DPA. We are aware, however, that these informal procedures will work when the need is only occasional. An energy emergency or defense mobilization will require a well defined course of action to deal with the large volume of requests expected under those circumstances. The interagency procedures manual will achieve this purpose.

Question 15: With regard to plans to support defense preparedness,

d. When was it decided to proceed with these activities?

Answer: DPA planning with respect to energy has been a function of DOE since its inception. The establishment of the Office of Environmental Protection, Safety, and Emergency Preparedness (EP) brought this program into focus, however, and provided a better opportunity for addressing planning issues.

With regard to NATO, DOE has had an ongoing interaction with the various NATO organizations. For the most part, this includes attending NATO-sponsored training sessions and meetings of NATO's Petroleum Planning Committee. EP along with IA, is now very active in such work.

Supporting Defense Preparedness

Question 15: With regard to plans to support defense preparedness,

e. Were these activities approved by the Cabinet Council? If so, when? If not, will they be submitted to the Cabinet Council?

Answer: The continuing program of working with the DOD to improve the DPA procedure has not, to our knowledge, been formally presented to the Cabinet Council. Certain of these matters are, however, now being reviewed by several principal working groups of the Emergency Mobilization Preparedness Board, charged with preparing policy statements on national security.

Question 15: With regard to plans to support defense preparedness,

f. Would you please supply copies of relevant background documents that would set forth the schedule and scope of these activities?

Answer: Attached are the following documents:

--Workplan exhibiting the interrelationship of the various DPA activities and proposed milestones and completion dates for specific projects.

--"Conceptual System Design and Methodology for the DOE Petroleum Supplier Allocation System" produced for DOE by Science Management Corporation--Federal Systems, May 8, 1981. (Retained in Committee files.)

--Memorandum, "Defense Production Act (DPA): Summary of DOE Reponsibilities and Potential Tasks"--For Ronald L. Winkler, DAS/EE, January 21, 1982. (Includes Department of Transportation Emergency Organization, "Emergency Procedures for Claiming Supporting Resources for Civil Transportation" DOT Standby Order DOT 1940.1A May 1, 1972.) (Retained in Committee files.)

--Memorandum, "Update of the Briefing Memorandum--Defense Production Act (DPA): Summary of DPA Responsibility and Potential Tasks; January 21, 1982" for Ronald L. Winkler, DAS/EE, March 12, 1982. (Retained in Committee files.)

--Memorandum of Agreement with the Department of Commerce, 38 F.R. 30896, November 8, 1973.

--Activity Summaries and Workplan for NATO Planning Activites.

NATO PLANNING ACTIVITIES

I. OBJECTIVES

The United States is obligated by the North Atlantic Treaty to respond to various peacetime and wartime conditions affecting members of the North Atlantic Treaty Organization (NATO). The overall purpose of this project is to develop and document a system for carrying out these responsibilities (including authorities available to it) under peacetime energy emergency conditions and wartime conditions.

Specifically, the major objectives are:

- To analyze the responsibilities of DOE (and to a lesser extent those of other Government agencies) with regard to the operation of the U.S. National Oil Board (NOB) for NATO activities.
- To establish regular formalized liaison with relevant organizations.
- To codify these responsibilities into a detailed operations manual.
- To identify auxiliary support and analysis (within DOE and the Government) which may be required to respond to various decision modes.
- To identify and analyze the various legislative authorities available to the U.S. in meeting our NATO commitment.
- To place DOE in a condition of readiness to participate in various NATO tests and exercises.
- To integrate, whenever possible, the common elements of the U.S. organizations established to meet various international commitments (e.g., NATO and IEA).

II. BACKGROUND

The North Atlantic Council (NAC), the highest authority in NATO, provides a forum for political consultation and coordination among allies. Military policy is discussed in the Defense Planning Committee (DPC) composed of member countries participating in NATO's integrated defense system. In support of their roles, the Council and the DPC have established a number of Committees, including the Senior Civil Emergency Planning Committee.

The Senior Civil Emergency Planning Committee is responsible for coordination of plans for the use of civil resources in support of the NATO defense effort. Within the NATO organization, the Petroleum Committee (PPC) has the task of developing plans for the distribution of available oil supplies among NATO members if there are supply shortages during crisis or war. These plans would be activated by a decision of the NAC. They would be implemented by the NATO Wartime Oil Organization (NWOO) within the context of current NATO policy that oil supplies available to the nations of the Alliance are coordinated in the best interests of the Alliance.

NATO refers to national oil authorities as National Oil Boards (NOB), which are analogues to the National Emergency Sharing Organizations (NESO) of the IEA. The NOB is the liaison agency between individual countries and when the NWOO is operational, NOB's provide the NWOO with information on their oil requirements and available supplies, and implement NATO's international oil supply program pursuant to national authority.

III. DISCUSSION

Within DOE, the Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness will function as the head of the NOB in NATO activities. This project will involve the development of the procedures required to meet our NATO commitment (with emphasis on NATO oil supply and distribution schemes). This project will involve several phases: background research (Phase I) which will result in the development of an interim operations manual (Phase II), coordination and review (Phase III), testing (Phase IV), and concluding with the preparation of the NATO Operations Manual for Energy Emergencies (Phase V).

BACKGROUND RESEARCH

The initial background search will concentrate on the various NATO publications. This includes recent NATO training material from 1980, 1981 and 1982 sessions; existing commitments of the U.S. (e.g., IEA, and U.S./Israeli bilateral agreement) and all relevant legislative authorities under which the U.S. could respond to an energy emergency. The role of DOD and other organizations will be identified. Initially, discussions will be held with knowledgeable DOE personnel (including IA, GC and EE staff members). Some of these discussions may be classified, and if so, appropriate security procedures will be followed.

As always, the necessity for reasonably accurate and timely data is an important element in decisionmaking. Initially, meetings will be scheduled with the Scenario Development and Response Strategy Division to assist in identifying these requirements. Subsequently, the Offices of IA and EIA would be consulted regarding developing/refining any necessary models. It will be necessary to conduct some meetings with staff members of other Federal Agencies to further analyze and document the system.

INTERIM MANUAL

It is envisioned that one of the first products will be a detailed flow chart, with each element in the chart supported by a narrative and, as appropriate, description of inputs and outputs. The product at this time would be the interim NATO Operations Manual for Energy Emergencies. It will then be circulated to an intra-agency group for comment.

COORDINATION AND REVIEW

It is anticipated that there may be undefined areas of responsibility among the various DOE offices and their relationship to other Federal Agencies. The coordination and review process should clarify the majority of the issues; however, for those which cannot be clarified, issue papers will be developed for further guidance from upper management.

TESTING

After the necessary changes have been made, we will conduct (during August 1982) an internal DOE test of this plan. This DOE test will provide a basis to prepare for participation in a NATO-sponsored test scheduled for early 1983, which will require a simulation of the U.S. NOB operation. Several reports will be prepared for the test including exercise, control and evaluation plans and an after-action report.

GENERAL

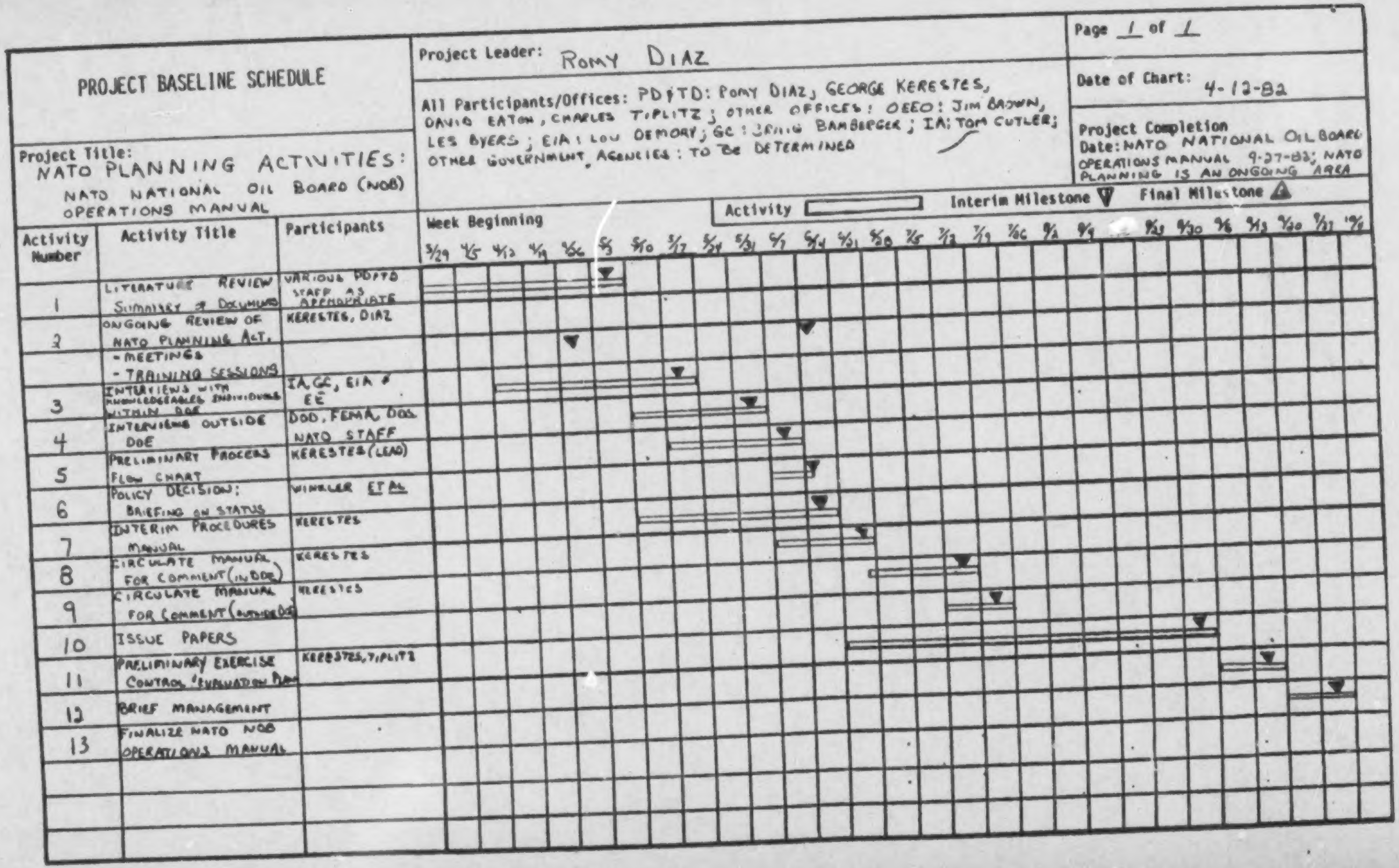
Periodically, meeting and special training sessions are held by NATO's Petroleum Planning Committee. As an ongoing activity, responsible individuals will be scheduled to attend these meetings with the task force receiving any relevant information.

Many of the documents reviewed have been classified as "NATO Confidential" and, as a result, only individuals with such a clearance will be able to review these documents and participate in many of the discussions. Extreme care must be exercised in the development of the NATO Operations Manual. It is our desire to produce a general overview of the manual which is unclassified, with the rest of the manual containing details which will probably be classified. In any event, DOE's Office of Safeguards and Security will be consulted throughout the project to assure conformity to applicable security procedures.

IV. RESOURCES

Because only those individuals with a NATO clearance will be permitted access to classified materials, the members of the task force should all have such a clearance. Special secure facilities may be required for classified meetings or briefings.

The requirements for support personnel (data and analysis) have not been determined. Although travel funds may be required in connection with attendance at NATO training sessions, we expect that this training will be funded outside the scope of this project, as part of EE's overall mission. In addition, it may be necessary to request a GSA-approved safe to store only NATO-related material.



PROJECT BASELINE SCHEDULE

Project Leader: ROMY DIAZ

Page 1 of 1

Date of Chart: 4-12-82

All Participants/Offices: PD & TD: ROMY DIAZ, GEORGE KERESTES, OTHER OFFICES: OEEO: JIM BROWN, DAVID EATON, CHARLES TIPLITZ; OTHER OFFICES: GC: IRVING BAMBERGER; IA: TOM CUTLER; LES BYERS; EIA: LOU DEMORY; OTHER GOVERNMENT AGENCIES: TO BE DETERMINED

Project Completion Date: NATO NATIONAL OIL BOARD OPERATIONS MANUAL 9-27-82; NATO PLANNING IS AN ONGOING AREA

Project Title: NATO PLANNING ACTIVITIES: NATO NATIONAL OIL BOARD (NOB) OPERATIONS MANUAL

Activity ▭ Interim Milestone ▼ Final Milestone ▲

Week Beginning: 3/29 4/5 4/12 4/19 4/26 5/3 5/10 5/17 5/24 5/31 6/7 6/14 6/21 6/28 7/5 7/12 7/19 7/26 8/2 8/9 [illegible] 8/23 8/30 9/6 9/13 9/20 9/27 10/4

Activity Number	Activity Title	Participants
1	LITERATURE REVIEW SUMMARY OF DOCUMENTS	VARIOUS PD & TD STAFF AS APPROPRIATE
2	ONGOING REVIEW OF NATO PLANNING ACT.	KERESTES, DIAZ
	- MEETINGS - TRAINING SESSIONS	
3	INTERVIEWS WITH KNOWLEDGEABLE INDIVIDUALS WITHIN DOE	IA, GC, EIA & EE
4	INTERVIEWS OUTSIDE DOE	DOD, FEMA, DOS NATO STAFF
5	PRELIMINARY PROCESS FLOW CHART	KERESTES (LEAD)
6	POLICY DECISION: BRIEFING ON STATUS	WINKLER ET AL
7	INTERIM PROCEDURES MANUAL	KERESTES
8	CIRCULATE MANUAL FOR COMMENT (IN DOE)	KERESTES
9	CIRCULATE MANUAL FOR COMMENT (OUTSIDE DOE)	KERESTES
10	ISSUE PAPERS	
11	PRELIMINARY EXERCISE CONTROL & EVALUATION PLAN	KERESTES, TIPLITZ
12	BRIEF MANAGEMENT	
13	FINALIZE NATO NOB OPERATIONS MANUAL	

NATO TEST/EXERCISES

DESCRIPTION

The Office of Energy Emergencies, as part of its responsibility to support the U.S. commitment to the North Atlantic Treaty Organization (NATO) Civil Emergency Planning Organization, is in the process of preparing for an upcoming test called WINTEX-CIMEX. All NATO members are expected to participate.

Liaison with the following organizations will be exercised: (1) the Petroleum Planning Committee (PPC) which has the task of developing plans for the distribution of available oil supplies among NATO members if there are supply shortages during crisis or war and (2) the NATO Wartime Oil Organization (NWOO) which is NATO's emergency petroleum organization.

As part of the National Oil Board (NOB) Operations Manual project (see separate summary), a test of the NOB will be conducted by DOE in August 1982. This will result in the development of a detailed test guide in late 1982.

PRODUCTS/ESTIMATED COMPLETION DATE

WINTEX-CIMEX will take place in February 1983. It will provide the opportunity for the U.S. to staff its NOB round-the-clock. The objectives include testing the oil crisis management procedures and testing the interface NOB and NWOO, and NOB and NATO executive boards. Several reports will be prepared for the test including exercise, control and evaluation plans and an after-action report.

ISSUES AND/OR PROBLEMS

None.

NATO NATIONAL OIL BOARD OPERATIONS MANUAL

DESCRIPTION

The United States is obligated by the North Atlantic Treaty to respond to various peacetime and wartime conditions affecting members of the North Atlantic Treaty Organization (NATO). Within the NATO organization, the Petroleum Planning Committee (PPC) has the task of developing plans for the distribution of available oil supplies among NATO members if there are supply shortages during crisis or war. These plans would be activated by a decision of the North Atlantic Council (NAC).

The NATO Wartime Oil Organization (NWOO) is NATO's emergency petroleum organization and would implement plans activated by the NAC. Like the International Energy Agency (IEA), NWOO's international operations are highly dependent on the supply of national emergency programs. NATO refers to national oil authorities as National Oil Boards (NOB), which are analogues to the National Emergency Supply Organizations (NESO) of the IEA. When the NWOO is operational, NOB's provide the NWOO with information on oil requirements and available supplies, implement NATO's international oil supply program pursuant to national authority and act as the U.S. liaison agency for energy conacts with the NATO countries.

PRODUCTS/ESTIMATED COMPLETION DATE

The Office of Energy Emergencies (EE) has established an intra-agency task force to coordinate the development of these NATO contingency plans. As part of this process, we are assessing our role in support of the NWOO. A key product of this assessment will be the development of the NOB operations manual. When completed, it will contain the organizational structure and various operating procedures required to meet our NATO commitment (with emphasis on NATO oil supply and distribution schemes). We anticipate completing an interim manual by June, after which it will be circulated to an interagency group for comment. After the necessary changes have been made, we will conduct (during August 1982) an internal DOE test of this plan. This DOE test will provide a basis to prepare for participation in a NATO-sponsored test scheduled for early 1983, which will require a simulation of the U.S. NOB operations.

ISSUES AND/OR PROBLEMS

At this stage of development, no substantial issues or problems have been identified. However, we expect that there will be NATO energy policy related issues presented at the various PPC meetings and training sessions. These policy issues will be handled in coordination with other relevant DOE offices.

safety to miners in the affected area in that berms would create hazardous conditions during the winter months because the roads would be covered with ice. Petitioner contends that guardrails would be ineffective and would cause many collisions since the road is very narrow in places with rock ledges on each side. Petitioner also avers that berms constructed in low areas would be flooded during the rainy season and the roadbeds would be destroyed by improper drainage on the road. Also, berms along the road would increase the danger of mountain slides.

Persons interested in this petition may request a hearing on the petition or furnish comments by December 10, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Gilbert O. Lockwood,
Acting Director,
Office of Hearings and Appeals.

October 25, 1973.

[FR Doc.73-23778 Filed 11-7-73;8:45 am]

[Docket No. M 74-10]

MAURICE JENNINGS

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Maurice Jennings has filed a petition to modify the application of 30 CFR 77.403 to its Scotch Hill Strip Mine located at Newburg, West Virginia.

30 CFR 77.403 reads as follows:

§ 77.403 *Mobile equipment; canopies and roll protection.* Forklift trucks, front-end loaders, and bulldozers shall be provided with substantial canopies and roll protection when necessary to protect the operator.

In support of its petition, petitioner states that it has three TD-24 bulldozers which are 15 to 20 years old. None of the bulldozers is equipped with a rollover cab, but petitioner is adding steel plates over the operator on the existing canopies as an alternative to the mandatory safety standard.

Petitioner contends that the addition of the steel plates will provide the same measure of protection to miners in the affected area as the application of the mandatory safety standard.

Persons interested in this petition may request a hearing on the petition or furnish comments by December 10, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Gilbert O. Lockwood,
Acting Director,
Office of Hearings and Appeals.

October 26, 1973.

[FR Doc.73-23779 Filed 11-7-73;8:45 am]

[Docket No. M 74-27]

PREMIUM COAL COMPANY, INC., ET AL.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Premium Coal Company, Incorporated and Rock Creek Mining Company, Incorporated, have filed a petition to modify the application of 30 CFR 77.1605(k) to the Premium Strip Mine and the Rock Creek Mine No. 1, both located at Lake City, Tennessee.

30 CFR 77.1605(k) reads as follows:

(k) Berms or guards shall be provided on the outer bank of elevated roadways.

In support of the petition, petitioner contends that State law may not permit berms on the side of the road due to slides and drainage. It is averred that installation of berms and guard rails would probably be ineffective as this would not prevent a heavy truck from going over the mountain.

As an alternative method, petitioner would continue using the road and maintaining it in its presently existing condition. The application of the mandatory standard would result in a diminution of safety to miners in the affected area. Petitioner states that most of the company-owned roads are at elevations up to 3,000 feet. Petitioner contends that the installation of berms would make it virtually impossible to remove snow from the roads in the winter.

Persons interested in this petition may request a hearing on the petition or furnish comments by December 10, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Gilbert O. Lockwood,
Acting Director,
Office of Hearings and Appeals.

October 25, 1973.

[FR Doc.73-23777 Filed 11-7-73;8:45 am]

Office of the Secretary

CURRENT DEFENSE MOBILIZATION AND EMERGENCY PREPAREDNESS PROGRAMS

Memorandum of Agreement With the Department of Commerce

In the matter of responsibilities for ongoing mobilization activities and for emergency preparedness and actions in national defense emergencies with respect to designated products and equipment, including chemicals, associated with output of petroleum and gas.

This Agreement delineates the respective responsibilities of the Department of the Interior and the Department of Commerce for certain actions involving current defense mobilization programs as well as emergency preparedness programs as they relate to: (1) The production and distribution of certain chemicals and fluids made especially for use in the petroleum industry, (2) the production and distribution of certain chemicals derived from the processing of petroleum and gas, (3) the distribution of certain oil/gas field machinery and equipment, and (4) the claimancy aspects of the foregoing.

This Agreement relates to provisions of Executive Order 10480 (3 CFR 1949-1953 Comp., p. 962; 50 U.S.C. App. 2153 (1970)), as amended, and Defense Mobilization Order 8600.1 (32A CFR 15). Under the foregoing certain authorities contained in the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), including priorities and allocations functions, are delegated for performance by named officers and agencies of the United States including the Secretary of the Interior and the Secretary of Commerce. It also relates to Executive Order 11490, as amended (3 CFR 1969 Comp., p. 151), which assigns to the Secretary of the Interior emergency preparedness planning functions with respect to petroleum and gas, and assigns to the Secretary of Commerce similar emergency preparedness planning functions covering all industrial materials and facilities not assigned to other officials, including chemicals, materials and facilities.

Within Interior, responsibility and authority for these matters have been delegated to the Director, Office of Oil and Gas.

Within Commerce, responsibility and authority for these matters have been delegated to the Deputy Assistant Secretary for Competitive Assessment and Business Policy.

Pursuant to section 301(a) of Executive Order 10480, Defense Mobilization Order 8600.1 delegates to the Secretary of the Interior responsibility for administration of priorities and allocations functions necessary to the defense mobilization program with respect to petroleum, gas, solid fuels, and electric power. With the exception of delegations to the Secretary of Agriculture for food and the domestic distribution of farm equipment and commercial fertilizer, and delegations to the appropriate Commissioner of the Interstate Commerce Commission in the field of domestic transportation, storage and port facilities, or the use thereof, priorities and allocations functions are delegated to the Secretary of Commerce with respect to all other materials and facilities.

Section 301 of Executive Order 10480 also places responsibility upon the Secretaries of the Interior and Commerce in connection with their mobilization functions, to "* * * develop and promote measures for the expansion of productive capacity and of production and supply of materials and facilities necessary for the national defense."

Executive Order 11490 delegates to the Secretary of the Interior and the Secretary of Commerce the responsibility of preparing national emergency plans and developing preparedness programs covering the respective categories of products and facilities specified in the Order. The Order, in section 702 defines the term "petroleum" to mean crude oil, synthetic liquid fuel, their products and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage; and, the term "gas" to mean natural gas (including helium) and manufactured gas, including pipelines for their movement and facilities specially designed for their storage. Among the specified exceptions to the areas of responsibility of the Secretary of Commerce set forth in Executive Order 11490 are the production and distribution of and use of facilities for petroleum and gas, responsibility for which is assigned to the Secretary of the Interior.

The production, and in some instances the utilization, of certain chemicals is so closely associated or integrated with petroleum and gas operations that a clear understanding of the division of responsibilities between the Secretary of the Interior and the Secretary of Commerce is necessary for defense mobilization and emergency preparedness activities and effective resources management in the event of a national emergency.

Accordingly, the Office of Oil and Gas or the Emergency Petroleum and Gas Administration (EPGA), if activated, would carry out Interior's petroleum and gas emergency responsibilities in a national emergency, and the Bureau of Competitive Assessment and Business Policy would carry out Commerce's responsibilities for defense mobilization and emergency preparedness and resource management over all industrial products, including chemicals, not specifically exempted by E.O. 10480 and E.O. 11490, in accordance with the following agreement and delineations:

PRODUCTION RESPONSIBILITY

A. *Interior*. Interior will be responsible for the production of: (1) petroleum and/or gas fuels and petroleum lubricants, including "refinery finished products" and "unfinished oils"; (2) "petrochemical intermediates" from processing units located within a petroleum refinery where the weight of "petrochemical intermediates" in the output of the processing unit constitutes less than 30 percent by weight of the net input; (3) n-paraffin "petrochemical intermediates"; (4) "special petroleum chemical supplies"; (5) elemental sulfur, except for special grades.

B. *Commerce*. Commerce will be responsible for the production of: (1) "chemicals" including all "petrochemicals," "petroleum processing catalysts," and "fuel combustion improvers"; (2) "petrochemical intermediates," including those from processing units located within a petroleum refinery where the weight of "petrochemical intermediates" in the output of the processing unit constitutes 30 percent or more of the weight of the net input to the unit; (3) special grades of sulfur.

DISTRIBUTION RESPONSIBILITY

A. *Interior*. Interior will be responsible for the distribution of: (1) all petroleum and/or gas fuels and petroleum lubricants; (2) all "special petroleum chemical supplies," "petroleum processing catalysts," and "fuel combustion improvers"; (3) "heavy liquid feedstocks"; (4) "light hydrocarbon feedstocks," except those produced and/or gathered specifically for a chemical operation.

B. *Commerce*. Commerce will be responsible for the distribution of: (1) all chemicals including "petrochemical intermediates," but excluding those chemical product groups assigned to Interior in section A(2); (2) "light hydrocarbon feedstocks" specifically produced and/or gathered for a chemical operation; (3) "non-fuel/non-lubricant petroleum products"; (4) special grades of elemental sulfur.

CLAIMANCY RESPONSIBILITY

Interior will assume claimant responsibility for all facilities over which production responsibility has been assigned to it by this Agreement. Commerce assumes claimant responsibility for facilities over which production responsibility has been assigned to it by this Agreement.

It is agreed that Interior and Commerce jointly will prepare a list, and revise it every two years, which specifies those facilities and plants in the United States, its possessions and territories, for which production and distribution responsibilities have been assigned in this Agreement.

PRODUCT DEFINITIONS

For the purpose of assigning responsibilities under this Agreement the following product definitions shall apply:

A. *"Light Hydrocarbon Feedstocks"*. Paraffin and cycloparaffin hydrocarbons in the range C_2–C_5 which are used for the production of "petrochemical intermediates."

B. *"Heavy Liquid Feedstocks"*. The feedstocks used as input to "heavy liquids plants" for the production of "petrochemical intermediates" which feedstocks include:

1. crude oil;
2. mixture of hydrocarbons derived from crude oil or from natural gas liquids, having a carbon content of C_5 or greater, and in which weight of paraffins plus cycloparaffins exceeds the weight of olefins and aromatics—which include products commonly designated as "naphtha" and/or "gas oil."

C. *"Refinery Finished Products"*. Any of one or more of the petroleum oils or mixtures of oils which can be used without further processing, including:

1. Liquified petroleum gases (LPG);
2. Gasoline;
3. Jet Fuel;
4. Naphtha;
5. Distillate fuel oils;
6. Lube oils and greases;
7. Residual fuel oils;
8. Asphalt;
9. Natural gas products—natural gasoline.

D. *"Unfinished Oils"*. Semi-finished refinery products, or unseparated mixtures of refinery products, which are further processed for production of "refinery finished products."

E. *"Petrochemical Intermediates"*. Chemical grade (minimum 90 percent by weight) aliphatic and/or aromatic hydrocarbons which can be used as raw materials for chemical processing into "petrochemicals," such as:

1. n-paraffins (normal-paraffins) in the range of C_{10}–C_{20};
2. mono-olefins, in the range of C_2–C_{20};
3. diolefins, in the range of C_4–C_{12};
4. acetylenes, in the range of C_2–C_4;
5. aromatics, including benzene, toluene, the xylenes and higher aromatic hydrocarbons.

F. *"Chemicals"*. For the purpose of this Agreement "chemicals" shall comprise those products listed under Major Group 28, Chemical and Allied Products, Standard Industrial Classification Manual, 1972 Edition; shall specifically include "petrochemical intermediates," "petrochemicals," "petroleum processing catalysts," "fuel combustion improvers"; but shall exclude "special petroleum chemical supplies" and all elemental sulfur other than special grades.

G. *"Petrochemicals"*. Petrochemical products include but are not limited to compounds produced by chemical reaction of "petrochemical intermediates." Petrochemicals are typified by products listed in section 9B(k) of Oil Regulation 1—Oil Import Regulation, 37 FR 10033 (1972). Attachment B.[1]

H. *"Special Petroleum Chemical Supplies"*. Products made especially for use in the production, refining and compounding of petroleum fuels and lubricants, including:

Hydrogen produced in a refinery for use in petroleum processing.

Special additives—for fuels and lubricants; to facilitate the drilling of oil and gas wells; to stimulate the production of oil and gas, and to facilitate the pipeline transmission of petroleum.

I. *"Non-fuel/Non-lubricant Petroleum Products"*. Certain products produced in the course of the refining of petroleum whose primary uses are other than as fuels and/or lubricants, such as: Coke, petroleum—green and calcined; cresylic acids; naphthenic acids; oils, rubber extending; solvents—aliphatic and aromatic hydrocarbons; waxes, refined—paraffin and micro-crystalline; white oils petrolatums, and other oils for medicinal, pharmaceuticals and cosmetic purposes.

J. *"Petroleum Processing Catalysts"*. Solid inorganic compositions used in petroleum refining to facilitate the conversion of hydrocarbons by chemical reaction, including: Catalytic cracking; hydrocracking; reforming; isomerization; desulfurization; hydrotreating.

K. *"Fuel Combustion Improvers"*. Chemical compositions added to liquid petroleum fuels to improve combustion characteristics, including: Tetraethyl lead and tetramethyl lead, and their blends for use as anti-knock materials; other products such as amyl nitrate, hexyl nitrate, n-methyl aniline, and the manganese-methyl cyclopentadiene complexes.

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[1] Filed as part of the original document.

L. *"Sulfur, Special Grades"*. Elemental sulfur which has been given a special physical or chemical processing to render it suitable for specific applications.

To assure that the signatories hereto have full authority to implement their responsibilities under Executive Orders 10480 and 11490, as amended, and Defense Mobilization Order 8400.1, as well as to effectuate the provisions of this Agreement, the signatories hereby delegate to each other the requisite authority for the exercise of the allocations and priorities functions vested in them in accordance with the understanding and agreement expressed herein.

This Agreement revokes and supersedes the National Production Authority (NPA) and the Petroleum Administration for Defense (PAD) agreements dated November 15, 1950, and January 15, 1951. It is expressly agreed, however, that the Department of the Interior will be responsible for the distribution of oil/gas field machinery and equipment as identified in Attachment A to this Agreement.

This Memorandum of Agreement also supersedes Petroleum Administration for Defense Delegation 1 to the Administrator, National Production Authority dated April 17, 1951 (16 FR 3389), and BDC Delegation 4 (formerly National Production Authority Delegation 9), U.S. Department of Commerce to the Secretary of the Interior, dated February 26, 1951 (16 FR 1908).

This Agreement is effective October 30, 1973.

Stephen A. Wakefield,
Department of the Interior.

Tilton H. Dobbin,
Department of Commerce.

Attachment A

The following machinery and equipment is required for the discovery, development or depletion of oil or gas wells:

Beams, drilling machinery, nonportable-oil field.
Bits, cable tool subsurface drilling-oil field.
Bits, rotary subsurface drilling, oil field.
Blocks, crown, surface rotary drill, oil field.
Blocks, traveling, surface rotary drill, oil field.
Casing and tubing head supports, flowing oil well.
Cementing equipment, rotary drilling oil field.
Chokes, flowing oil and gas well.
Christmas tree assemblies, flowing oil well.
Connectors, subsurface drilling, oil field.
Connectors, surface rotary drilling-oil field.
Coring equipment, subsurface drilling, oil field.
Cutting tools, subsurface drilling, oil field.
Derricks, substructures and accessories, oil field.
Draw works, surface rotary drilling-oil field.
Drill collars, subsurface drilling, oil field.
Drilling machine accessories, surface, except portable-oil field.
Drilling machines, surface, except portable-oil field.
Drilling rigs, cable tool, portable, blast hole.
Drilling rigs, cable tools, portable-oil gas field.
Drilling rigs, rotary, portable, blast hole.
Drilling rigs, rotary, portable-oil field.
Elevators, surface rotary drilling-oil field.
Fishing tools, subsurface drilling, oil field.
Float collars, oil field drilling.
Guide and float shoes combination, oil field drilling.
Guide shoes, oil field drilling.
Gun perforating equipment, oil field.
Hooks, surface rotary drilling-oil field.
Indicators, surface rotary drilling-oil field.
Jars, cable tool subsurface drilling, oil field.
Kelly joints, subsurface drilling, oil field.
Lifting machinery, rodless, oil field.
Links, surface rotary drilling-oil field.
Manifolds, flowing oil and gas well.
Metering equipment, oil and gas field.
Packers, oil and gas field.
Pitmans, drilling machine, nonportable-oil field.
Pull and polish rod equipment, oil field.
Pumping jacks, oil and gas field.
Pumping parts and accessories, oil field.
Pumping units and accessories, oil field.
Reamers, rotary subsurface drilling, oil field.
Reels, drilling machine, nonportable-oil field.
Rig irons, surface drilling, except portable, oil field.
Rigs, consolidated, surface rotary drill-oil field.
Rotary tables, surface drilling-oil field.
Screens, oil and gas field.
Separating equipment, oil and gas field.
Slips, surface rotary drilling-oil field.
Sockets, cable tool subsurface drilling, oil field.
Spiders, surface rotary drilling-oil field.
Subs, subsurface drilling, oil field.
Sucker, rod equipment, oil field.
Surveying machinery, well, oil field.
Swivels, surface rotary drilling-oil field.
Tool joints subsurface drilling, oil field.
Treating equipment, oil and gas field.
Tubing catchers, oil and gas field.
Well-control equipment, oil, surface rotary drilling (Blow-out preventers, etc.).
Wheels, drilling machine, non-portable-oil field.

[FR Doc.73-23761 Filed 11-7-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

MILK IN SOUTHEASTERN MINNESOTA-NORTHERN IOWA AND MINNEAPOLIS-ST. PAUL, MINNESOTA, MARKETING AREAS

Determination of Equivalent Prices in October 1973 for New York Grade AA (93-Score) Butter

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable provisions of the orders, as amended, regulating the handling of milk in the aforesaid milk marketing areas, hereinafter referred to as the "orders", it is hereby found and determined as follows:

(1) Due to the limited number of days on which a price for Grade AA (93-score) butter at New York was reported by the Dairy and Poultry Market News Service, U.S. Department of Agriculture, Agricultural Marketing Service, we conclude that the prices reported do not provide an adequate basis for computing an average price for such grade of butter for October 1973.

Dairy and Poultry Market News Service regularly reports wholesale bulk butter prices for New York Grade AA (93-score) butter on Tuesday, Thursday, and Friday of each week. The average of such prices during the month is used to determine the Class II butterfat differentials pursuant to the Southeastern Minnesota-Northern Iowa and Minneapolis-St. Paul milk orders. For the first 18 days of October 1973, four price quotations were reported for New York 93-score butter. Two quotations were at 85.500 cents and two quotations were at 84.500 cents. On October 19 the butter market experienced a dramatic drop which held for the remainder of the month. During this period, there were two quotations at 72.250 cents and one quotation at 72.125 cents. An average of these seven prices is not representative for the month since these quotations do not give proper weight to the higher level of prices in the beginning of the month. It is therefore determined to be necessary to provide equivalent prices for those reporting days on which the wholesale prices at New York for Grade AA (93-score) butter were lacking.

Such equivalent prices have been determined based on spot market prices for New York Grade AA (93-score) butter on the New York Mercantile Exchange plus a normal differential between such spot prices and wholesale bulk selling prices. Using these equivalent prices in conjunction with the wholesale bulk New York Grade AA (93-score) butter prices reported during the month, it is hereby determined that the average New York Grade AA (93-score) butter price for October 1973, for purposes specified in the aforesaid orders, is 80.89 cents.

(2) Notice of proposed rulemaking, public procedure thereon, and 30 days prior notice of the effective date hereof are impracticable, unnecessary and contrary to the public interest, in that (a) the daily wholesale bulk selling price for New York Grade AA (93-score) butter has been reported by the Dairy and Poultry Market News Service, U.S. Department of Agriculture, Agricultural Marketing Service, on a limited number of days during October 1973, and such prices are not representative prices for the entire month of October 1973; (b) the need for determination of equivalent prices could not be known until the end of October 1973, and such determination could not be made until all available data for the month had been obtained; (c) the determination of such equivalent prices is necessary to make possible the announcement of butterfat differentials pursuant to the Southeastern Minnesota-Northern Iowa and Minneapolis-St. Paul orders on November 5, 1973; (d) this determination is necessary to give notice to all interested persons that the average of the New York Grade AA (93-score) wholesale bulk butter prices reported by the Dairy and Poultry Market News Service during October 1973 will not be the price used in computing butterfat differentials under the aforesaid orders; and (e) this determi-

DEPARTMENTS OF ENERGY AND COMMERCE

Memorandum of Understanding and Agreement Concerning the Jurisdiction and Responsibility for Products and Equipment Associated with the Production of Petroleum and Gas for Emergency Preparedness and Mobilization

A. Purpose.

This Agreement sets forth the jurisdiction and responsibilities of the Department of Energy (DOE) and the Department of Commerce (DOC) for defense mobilization and emergency preparedness programs, and for resource management in the event of a national emergancy, as they relate to: (1) the production, distribution and utilization of chemicals and fluids made especially for use in the petroleum and gas industry; (2) the distribution of oil/gas field machinery and equipment; and (3) the production, distribution and utilization of petrochemicals derived from oil and gas.

B. Authority.

1. Section 201(a) of Executive Order 10480, as amended (E.O. 10480), and Defense Mobilization Order 3 (DMO 3) (44 CFR 322), provide for the delegation of authority for the administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 USC 2061 et seq.), to the Secretary of Energy (see Executive Order 12038) with respect to petroleum, gas,

solid fuels and electric power; and to the Secretary of Commerce with respect to all other materials and facilities not specifically delegated to other agencies.

2. Section 901 et seq. of Executive Order 11490, as amended (E.O. 11490), delegates to the Secretary of Commerce the authority for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials, and the use of all production facilities except those that are specifically assigned to, or under the jurisdiction of, other agencies. Such an exception is provided for the production and distribution of, and the use of facilities for, petroleum and gas. Section 701 et seq. of E.O. 11490 (see Executive Order 12038), provides for the delegation of this authority to the Secretary of Energy.

3. Section 702 of E.O. 11490 defines the term "petroleum" to mean crude oil, synthetic liquid fuel, their products and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage; and the term "gas" to mean natural gas (including helium) and manufactured gas (but not industrial gases), including pipelines for their movement and facilities specially designed for their storage.

4. The functions delegated by these authorities to the Secretaries of Energy and Commerce have been redelegated by the Secretary of Energy to the Administrator, Emergency Petroleum and Gas Administration (EPGA), and by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA).

C. Departmental Responsibilities.

1. Production.

Department of Energy: The DOE has jurisdiction over the production of: (a) petroleum and gas fuels and petroleum lubricants, including "refinery finished products" and "unfinished oils"; (b) "petrochemicals" from processing units located within a petroleum refinery where the weight of "petrochemicals" in the output of the processing unit constitutes less than 30 percent by weight of the net input to the unit; (c) n-paraffin "petrochemical intermediates"; (d) "special petroleum chemical supplies"; and (e) recovered sulfur, except for special grades, recovered from petroleum processing.

Department of Commerce: The DOC has jurisdication over the production of: (a) all "chemicals" including "petroleum processing catalysts" and "fuel combustion improvers"; (b) "petrochemicals" including those from processing units located within a petroleum refinery where the weight of "petrochemicals" in the output of the processing unit constitutes 30 percent or more by weight of the net input to the unit and; (c) special grades of sulfur.

2. Distribution.

Department of Energy: The DOE has jurisdiction over the distribution of: (a) all petroleum and gas fuels and petroleum lubricants; (b) all "special petroleum chemical supplies," "petroleum processing catalysts" and "fuel combustion improvers"; (c) "petrochemical feedstocks" except those produced and/or gathered specifically for a chemical operation; and (e) oil/gas field machinery and equipment as identified in Schedule A to this Agreement.

Department of Commerce: The DOC has jurisdiction over the distribution of: (a) all "chemicals" including "petrochemicals" but excluding those chemical product groups assigned to the DOE; (b) "petrochemical feedstocks" specifically produced and/or gathered for a chemical operation; (c) "non-fuel/non-lubricant petroleum products"; and (d) special grades of sulfur.

D. Product Definitions.

For the purpose of assigning responsibilities under this Agreement the following product definitions shall apply:

1. "Petrochemical Feedstocks"

Hydrocarbon materials obtained from petroleum and/or natural gas, used as "feedstock" or raw material for the production of "primary petrochemicals" or "petrochemical intermediates". These materials include:

- Natural gas (methane) processed to a quality suitable for pipeline transmission;
- Liquified petroleum gases (natural gas liquids) which are the several low boiling, lower molecular weight hydrocarbons that include ethane, propane, and butanes and the pentanes;
- Naphtha (light petroleum liquids) which is a medium boiling range mixture of hydrocarbons obtained from the processing of crude oil and/or petroleum refining. Naphtha is the major component of gasoline. The usual distillation range of naphtha feedstock is 100-400° F; and
- Gas oil (heavy petroleum liquids) which is a high boiling mixture of hydrocarbons obtained from the processing of crude oil and/or petroleum refining. Gas oil is the major component of distillate grades of fuel oil. Atmospheric gas oil may comprise hydrocarbons in the distillation range 400-650° F; vacuum gas oil may comprise higher boiling materials in the distillation range 650-1000° F.

2) "Chemicals"

For the purpose of this Agreement "chemicals" shall comprise those products listed under Major Group 28, Chemical and Allied Products, Standard Industrial Classification Manual, 1977 Edition; and shall specifically include "petrochemicals", "primary petrochemicals", "petrochemical intermediates", "petroleum processing catalysts", "fuel combustion improvers"; but shall exclude "special petroleum chemical supplies" and all elemental sulfur other than special grades.

3) "Petrochemicals"

Chemical materials which, directly or indirectly, are manufactured from petrochemical feedstock hydrocarbons. These materials include:

- o Primary petrochemicals produced directly from feedstocks by chemical conversion or breakdown and mainly used for the production of "intermediates" and/or petrochemical "products";
- o Petrochemical intermediates generally produced by chemical conversion of primary petrochemicals to form more complicated derived compounds. Such compounds serve as the raw material for synthesis of petrochemical "products", and for numerous other materials; and

- **Petrochemical products** which are end products of the chemical industry produced by chemical conversion of "primary" petrochemicals and/or petrochemical "intermediates".

4. "Refinery Finished Products"

Any of one or more of the petroleum oils or mixtures of oils which can be used without further processing, including:

- Liquified petroleum gases (LPG);
- Gasoline;
- Jet Fuel;
- Naphtha;
- Distillate fuel oils;
- Lube oils and greases;
- Residual fuel oils;
- Asphalt; and
- Natural gas products - natural gasoline.

5. "Unfinished Oils"

Semi-finished refinery products, or unseparated mixtures of refinery products, which are further processed for production of "refinery finished products."

6. "Special Petroleum Chemical Supplies"

Products made especially for use in the production, refining and compounding of petroleum fuels and lubricants, including:

- Hydrogen produced in a refinery for use in petroleum processing; and
- Special additives:
    - for fuels and lubricants;
    - to facilitate the drilling of oil and gas wells;
    - to stimulate the production of oil and gas; and
    - to facilitate the pipeline transmission of petroleum.

7. "Non-fuel/Non-lubricant Petroleum Products"

Certain products produced in the course of the refining of petroleum whose primary uses are other than as fuels and/or lubricants, such as:

- Asphalts;
- Coke, petroleum - green and calcined;
- Cresylic acids;
- Naphthenic acids;
- Oils, rubber extending;
- Solvents - aliphatic and aromatic hydrocarbons;
- Waxes, refined - paraffin and micro-crystalline; and
- White oils, petrolatums, and other oils for medicinal, pharmaceutical and cosmetic purposes.

8. "Petroleum Processing Catalysts"

Solid inorganic compositions used in petroleum refining to facilitate the conversion of hydrocarbons by chemical reaction, including:

- Catalytic cracking;
- Hydrocracking;
- Reforming;
- Isomerization;
- Desulfurization; and
- Hydrotreating.

9. "Fuel Combustion Improvers"

Chemical compositions added to liquid petroleum fuels to improve combustion characteristics, including:

- Methyl tertiary butyl ether;
- Tertiary butyl alcohol;
- Tetraethyl lead and tetramethyl lead, and their blends for use as anti-knock materials; and
- Other products such as amyl nitrate, hexyl nitrate, n-methyl aniline, and the manganese-methyl cyclopentadiene complexes.

10. "Sulfur, Special Grades"

Elemental sulfur which has been given a special physical or chemical processing to render it suitable for specific applications.

E. Delegation of Authority.

To assure that both the DOE and DOC have full authority to implement their responsibilities under E.O. 10480 and 11490, and

DMO 3, as well as to effectuate the provisions of this Agreement, each Department delegates to the other the requisite authority for the exercise of priorities and allocations functions as set forth in this Agreement.

F. Effective Date.

This Memorandum of Understanding and Agreement supersedes the Memorandum of Agreement between the Department of Interior and the Department of Commerce that became effective on October 30, 1973, (38 FR 30896, November 8, 1973), the authority for which was transferred from Interior to the Department of Energy as of October 1, 1977, by Executive Order 12038 (43 FR 4957); and shall be effective on the date of its publication in the FEDERAL REGISTER.

DEPARTMENT OF ENERGY

_____________________________ Date__________________
Administrator
Emergency Petroleum and Gas Administration

DEPARTMENT OF COMMERCE

_____________________________ Date__________________
Acting Director
Office of Industrial Resource Administration

Pitmans, drilling machine, nonportable-oil field
Pull and polish rod equipment, oil field
Pumping jacks, oil and gas field
Pumping parts and accessories, oil field
Pumping units and accessories, oil field
Reamers, rotary subsurface drilling, oil field
Reels, drilling machine, nonportable-oil field
Rig irons, surface drilling, except portable, oil field
Rigs, consolidated, surface rotary drill-oil field
Rotary tables, surface drilling-oil field
Screens, oil and gas field
Separating equipment, oil and gas field
Slips, surface rotary drilling-oil field
Sockets, cable tool subsurface drilling, oil field
Spiders, surface rotary drilling-oil field
Subs, subsurface drilling, oil field
Sucker, rod equipment, oil field
Surveying machinery, well, oil field
Swivels, surface rotary drilling-oil field
Tool joints subsurface drilling, oil field
Treating equipment, oil and gas field
Tubing catchers, oil and gas field
Well-control equipment, oil, surface rotary drilling
    (Blow-out preventers, etc.)
Wheels, drilling machine, non-portable-oil field

Supporting Defense Preparedness

Question 16: Describe in detail the Administration's program regarding assessing the vulnerability to terrorism and sabotage of the SPR, the Naval Petroleum and Oil Shale Reserves, the electric utility network, pipelines and other parts of the U.S. energy system.

Answer: The DOE Office of Energy Emergencies has a program to assess the National vulnerability to disruptions of the supply of electric power, natural gas or petroleum that occurs from acts of sabotage or terrorism against the systems that produce and deliver these energy forms. The first priority in these efforts concerns disruption of the energy supplies to installations critical to national defense, such as might result from sabotage by foreign agents during mobilization or combat. The second priority concerns threats to the general economy or to public safety, such as might be associated with terrorist attacks against energy facilities.

The program involves separate studies of each of the three energy systems, plus a number of joint investigations on subjects common to all three studies.

The joint investigations include the following subjects:

- Intelligence estimates regarding the threat
- Institutional responsibilities for dealing with major sabotage problems, before and after the event
- Critical defense facilities that may be sensitive to external energy supply interruption
- Current sabotage techniques

The three separate energy system vulnerability studies are at different stages of development.

The Electric Power System Study has been underway since late 1981. It is being conducted by DOE staff without contract support but with the cooperation of several offices within the Defense Department and a number of electric utilities. The effort is currently limited to sabotage directed at U.S. military effectiveness, but may later be expanded to address attacks designed to serve terrorist objectives. The approach has been to study power-consuming installations nominated by DOD as highly critical to military effectiveness and served by a single electric utility system. Each case study involves analysis of (1) alternative ways of disrupting the external power supply to the defense facility, through multiple simultaneous sabotage attacks; and (2) the consequences of power disruptions of various durations on the operation of the defense facility and, ultimately, on the combat effectiveness of military forces.

Question 16. Cont'd

A classified report on the electric power vulnerability study is anticipated for late 1982. The detailed schedules will depend on the results of an ongoing effort to develop an integrated, long-range plan for vulnerability assessments.

The Natural Gas System Study is still preliminary--we are gathering information at this time. The question of whether to focus first on defense-critical gas customers, rather than analyzing the impacts of pipeline sabotage on the general economy, has not yet been resolved. The study will involve close cooperation with the gas industry and will include a detailed examination of at least one major pipeline and at least one of the major distribution systems it serves, to determine the consequences of various levels of sabotage.

The Petroleum System Study is in the early planning stages. The study will examine the overall system for producing, refining, storing, piping, or transporting by other means, crude oil and petroleum products, with special attention on vulnerabilities of facilities external to the SPR installations that could impair effective use of the SPR. We are developing a detailed study plan and schedule. (Moreover, the DOE Strategic Petroleum Reserve Office has recently sponsored a detailed study of the vulnerability of the SPR facilities.)

Conducting Tests

Question 17: With regard to the planning for and testing of various energy emergency programs.

a. Would you describe the programs involved?

Answer: The Department's test program assures regular tests of contingency programs (including continuity of government, IEA preparedness, civil emergencies and military traffic) as part of DOE's quality control. This, in turn, assures continually maintained readiness: optimum use of the externally sponsored exercises, and maximum coordination among DOE program offices, and other agencies.

Exercises in which DOE participates with outside agencies, include those sponsored by the Federal Emergency Management Agency (FEMA) called REX; the North Atlantic Treaty Organization (NATO); International Energy Agency (IEA) called AST-4; and other exercises with Department of Defense. DOE is planning several of its own exercises, including tests of the Strategic Petroleum Reserve. Exercises sponsored by any one agency generally occur every other year. In the aggregate, there is an active program, with various exercises by the various participating agencies several times a year.

The programs tested involve varied scenarios and authorities. REX and NATO involve wartime and mobilization-related scenarios. IEA concerns mainly peacetime and civil emergencies such as an embargo. SPR could be involved in either. REX, NATO and IEA involve resource management, such as priority assignment or claimancy. Many of the ad-hoc exercises with DOD, such as COREX, also involve claimancy and related procedures.

Conducting Tests

Question 17. With regard to the planning for and testing of various energy emergency programs,

b. Would you describe in detail the results of the tests of the Continuity of Government Plan?

Answer: In conjunction with REX-82, DOE conducted a short test at its site C, March 4 and 5, 1982. Exercise teams at both sites C and B (the FEMA special facility) were drawn from the following DOE offices: DP, DP, NE, MA, GC, PE, PA, EIA, AND ERA.

The site B objective was to improve plans and preparedness for Continuity of Government (COG) and civil mobilization. The objectives of site C test were to test the adequacy of all DOE offices to operate essential functions during a severe national emergency, and permit all participants to gain further understanding of COG plans and concepts. From this standpoint, the exercises succeeded. They brought together representatives of DOE offices and other agencies and demonstrated their ability to work together to solve problems under adverse conditions. It also demonstrated that collectively such teams can provide useful recommendations to the President.

Conducting Tests

Question 17: With regard to the planning for and testing of various energy emergency programs,

c. Would you describe in detail plans for the testing of IEA preparedness for energy emergencies, civil emergencies, and military traffic?

Answer:

IEA Emergency Preparedness

Periodically the IEA Secretariat, with IEA members and the Reporting Companies (i.e., oil companies which participate directly in IEA activities and have signed the voluntary agreement on the International Energy Program), test the IEA Emergency Sharing System to assess its operating effectiveness, to train persons in operating the system, and to evaluate the ability of IEA nations to respond to disruptions, including the effects of domestic response measures on the international sharing system. These exercises are know as Allocation System Tests (AST).

Plans for testing the IEA's emergency sharing system (AST-4) are under development, and will eventually be embodied in an AST-4 Test Guide. Completion must, of course, await final decisions by the IEA regarding the objectives and scope of AST-4. An IEA AST-4 Design Group, chaired the U.S. State Department, is considering such issues. Other IEA members, Reporting Companies and the IEA Secretariat are represented in the Design Group, which by late June expects to make recommendations to the IEA Standing Group on Emergency Questions, which will make a decision.

On this basis, we expect that a draft AST-4 Exercise Guide for DOE participation should be ready sometime during the fall of 1982. We expect this Exercise Guide to cover objectives, scope, responsibilities, scenarios, communications, data processing, public affairs, security, reports, control, evaluation, funding, and administration.

Civil Emergencies

Domestic civil emergency plans are tested in the biennial series of exercises called REX, sponsored by the Federal Emergency Management Agency in coordination with Department of Defense (Joint Chiefs of Staff) command post exercises. The object of the FEMA exercises, is to improve plans and preparedness for Continuity of Government and civil mobilization.

Question 17.c. Cont'd

REX-82 consists of two one-week exercises subtitled ALPHA and BRAVO. ALPHA exercises involve a general war scenario during and around the period of an immediate attack. Participation is at the Special Facility of the FEMA. BRAVO involves industrial mobilization considerably before a war and is played at regular duty stations. These exercises, conducted by FEMA, are part of a biennial series among the Federal Civil Agencies in conjunction with Joint Chiefs of Staff Command post exercises.

These exercises permit participation by responsible staff. Suggestions for improved energy crisis management also emerge. Several reports prepared for the exercises include exercise, control and evaluatior plans and after-action reports. The after-action report on ALPHA, which took place March 1-5 this year, was completed in April and is classified. Dates for BRAVO have not yet been determined and will be classified.

In addition, we are preparing for an upcoming NATO test called WINTEX-CIMEX. All NATO members are expected to participate.

DOE has liaison with the following organizations: (1) the Petroleum Planning Committee (PPC) which will develop plans to distribute available oil supplies among NATO members if there are supply shortages during crisis or war and (2) the NATO Wartime Oil Organization (NWOO) NATO's emergency petroleum organization.

As part of the National Oil Board (NOB) Operations Manual project (discussed in 15.b.), we have planned for a DOE test of the NOB in August 1982. This will result in a detailed test guide in late 1982.

WINTEX-CIMEX will take place in February 1983. It will permit the U.S. to staff its NOB round-the-clock. The objectives include testing the oil crisis management procedures and the interface between NOB and NWOO, and NOB and NATO executive boards. Several reports, to be prepared for the test, will include exercise, control and evaluation plans and an after-action report.

Military Traffic

COREX-81 (COntingency REsponse) was conducted by the Military Traffic Management Command of the U.S. Army. Its object was to test military traffic management during mobilization, specifically it tested procedures in passenger movement oriented and trained new CORE team members, and reaffirmed established procedures in the freight industry for defense contingencies during mobilization. DOE participated in these exercise as an observer.

Conducting Tests

Question 17: With regard to the planning for and testing of various energy emergency programs,

d. Would you describe in details plans to test the Strategic Petroleum Reserve drawdown management process?

Answer: A Phase "B" test of the Strategic Petroleum Reserve (SPR) will be part of the preparation of the SPR Distribution Manual. Tests of the SPR have three phases and several levels. Phase A refer to physical drawdown tests which demonstrate the integrity and capacity of the equipment and sites. We have already had two successful tests. Phase B covers management, administration and non-physical procedures. Phase C combines both A and B types. Tests may also be conducted at several levels: a single site (such as Bryan Mound), a group of sites (such as the Capline Group) or at all of the sites. The test currently planned will cover management, policy and administrative procedures for the entire SPR. It will simulate two procurement cycles, equivalent of about two months' sales.

This test will permit responsible staff to participate in a simulated crisis. It will also validate the procedures being developed in the SPR Distribution Management Manual. We will prepare several reports, including exercise, control and evaluation plans, and an after-action report. The exercise is scheduled for no earlier than September of 1982. We intend to issue test plans in the summer of 1982 and an after-action report in the winter.

Conducting Tests

Question 17: With regard to the planning for and testing of various energy emergency programs,

e. Would you please supply copies of relevant background documents that would set forth the schedule and scope of these activities?

Answer: We are providing the following:

- Continuity of Government Plan

  DOE's Exercise Plan (attached)

- Military Traffic Management Test

  COREX After Action Report (attached)

- SPR

  The Distribution Management Manual (attached)

(These documents are retained in Committee files.)

QUESTION AND ANSWER ATTACHMENTS

Question 1.	DOE Report (DOE/S0008) "The National Energy Policy Plan." DOE Report (DOE/EP0027) "Domestic and International Energy Emergency Preparedness," July 1981.
Question 2.	None required.
Question 3.	Letter, Secretary Vaughan to Senator Broyhill, dated March 23, 1982. Statement of W. Kenneth Davis before Subcommittee on Fossil and Synthetic Fuels, July 28, 1981. DOE Comments on GAO REport, "The United States Remains Unprepared for Oil Import Disruptions," EMD-81-117, March 2, 1981.
Question 4 (a thru d).	"Interim Draft Report Revision 1, Distribution Management Manual for the Strategic Petroleum Reserve," April 1982.
Question 5e.	SPR Drawdown Information Guidebook, Edward N. Krapels, April 11, 1982.
Question 6c.	Harvard Study, "Building Buffer Stocks in a Bear Market: Policy Choices for Emergency Oil Reserves," Alvin Alm & Edward Krapels, March 1982 (H-82-01).
Question 7a.	National Emergency Sharing Organization (NESO) Management Plan.
Question 7b.	DOE's Mechanism to Backstop Voluntary Offers by U.S. Oil Companies should IEA Emergency System be Triggered.
Question 7c.	IEA Allocation Systems Test 4 - U.S. Participation.
Question 7d.	DOE's Analysis of financial and economic impacts of energy supply interruption. Bibliography.

Question 7e.	"Mechanisms for Recyling Federal Tax Revenues to Individuals and Households in the Event of a Sudden Increase in the Price of Oil." ICF, April 1981. "Responding to Hardships from Oil Supply Disruptions, Analysis & Administrative Issues," ICF, November 1981. Three preliminary studies by the Cabot Consulting Group. -- Preliminary Assumptions: "Hardship Income Redistribution Mechanisms," (January 1981) -- Preliminary Report: "Selected Economic Issues in Petroleum Supply Shortfalls and Tax Revenue Distribution," (September 1981) -- Preliminary Report: "Comparison of Administrative Implications of Alternate Rebate Mechanisms," (November 1980) Draft DOE Report, "Petroleum Emergency Preparedness Study," April 1981.
Question 8b.	Documents furnished as attachments to Questions 7a-e above.
Question 9.	None required.
Question 10a.	Emergency Public Information Program.
Question 10b.	None required.
Question 10c.	DOE's Daily Situation Energy Report.
Question 10d.	DOE's Daily Situation Energy Report.
Question 11.	Question 10a through 10e above respond to Question 11.
Question 12.	None required.

Question 13.	Executive Order 10647--Providing for the Appointment of Certain Persons Under the Defense Production Act of 1950, as amended. Executive Order 11179--Providing for the National Defense Executive Reserve. Executive Order 11490--Assigning Emergency Preparedness Functions to Federal Departments and Agencies, as amended (Excerpts). Executive Order 12038--Relating to Certain Functions Transferred to the Secretary of Energy by the Department of Energy Organization Act. Federal Preparedness Circular 24--Providing for the National Defense Executive Reserve, dated April 4, 1980, to which the NDER policies and procedures manual is attached.
Question 14.	Question 13 responds to Question 14.
Question 15a.	None required.
Question 15b.	NATO Planning Activities.
Questions 15c-e.	Workplan exhibiting the interrelationship of the various DPA activities and proposed milestones and completion dates for specific projects. "Conceptual System Design and Methodology for the DOE Petroleum Supplier Allocation System" produced for DOE by Science Management Corporation--Federal Systems, May 8, 1981. Memorandum, "Defense Production Act (DPA): Summary of DOE Responsibilities and Potential Tasks"--For Ronald L. Winkler, DAS/EE, January 21, 1982. (Includes Department of Transportation Emergency Organization, "Emergency Procedures for Claiming Supporting Resources for Civil Transportation" DOT Standby Order DOT 1940.1A May 1, 1972.) Memorandum, "Update of the Briefing Memorandum--Defense Production Act (DPA): Summary of DPA Responsibility and Potential Tasks, January 21, 1982" for Ronald L. Winkler, DAS/EE, March 12, 1982.

Questions 15c-e. Continued	Memorandum of Agreement with the Department of Commerce, 38 F.R. 30896, November 8, 1973. Activity Summaries and Workplan for NATO Planning Activities.
Question 16.	None required.
Question 17a.	None required.
Question 17b.	None required.
Question 17c.	COREX 81, "After Action Report." REX 82 Alpha, DOE Orientation Kit.

APPENDIX III

Responses to Additional Committee Questions

Questions on DOE's Contingency Plans for Oil Disruptions

GENERAL

Impact of Disruptions

1. DOE intends to rely on a market oriented approach to a supply interruption, rather than on Government intervention such as allocation or mandatory demand restraint. Has DOE estimated to what levels prices would rise during an interruption? What might the market-clearing price be during a world-wide shortage of one, three or ten million barrels a day? For instance, what are the implications of these prices for the economy or for income distribution? On the other hand, government intervention is not without cost and inefficiency as shown from the past few years. Have these tradeoffs been assessed?

Conflicting Plans

2. DOE is encouraging development of state contingency plans. This invites creation of more than 50 plans and regulations which may conflict with each other and national plans and regulations. How will DOE avoid a web of potentially conflicting regulations?

Prices

3. The most damaging effect of the 1979 oil shortfall came from the rapid price increase. Current DOE plans do not include measures to deal with this problem. What, if anything, does DOE intend to do to attempt to mitigate rapid price increases?

Surge Production

4. In the event of a disruption, are there any specific plans to encourage surge production of oil or other forms of energy within the United States? Would you comment on existing barriers to surge production such as State and Federal regulations?

Demand Restraint

5. In addition to the anticipated impact of price increases, what voluntary or involuntary demand restraint means have been analyzed or discussed by the administration? What measures would be put in place or urged upon the U.S. public by the Emergency Public Information Program? What energy savings can we expect from these efforts?

Data

6. Effective international coordination of oil policy as well as efficient use of the SPR implies an understanding on a current basis of the world and domestic oil markets. Given the present direction of DOE manpower and funding, I am concerned that DOE's information capabilities may be severely limited. Would you describe in specific detail DOE's data gathering and data analysis capabilities, indicating the resources available for these purposes and the type and timeliness of data which will be produced?

7. In the event of a petroleum shortage, however caused, would the domestic market be the sole allocator of supplies ? Would that depend upon the extent of the shortage or the nature of its cause ?

8. What are the prevailing terms for dealing on the spot market for crude oil and petroleum products (e.g., minimum quantity to be purchased, transportation, storage and payment) ? What are the general terms between contract suppliers and jobbers ? Do these terms differ if the jobber is an independent rather than an affiliate of the supplier ? Is it possible that an independent jobber could be held to more onerous requirements than a jobber affiliated with the supplier during a shortage ?

EXECUTIVE MANPOWER RESERVES

9. What was the origin of the decision to revive the Emergency Manpower Reserves program and what is the rationale for their revival?

10. MR. VAUGHAN, IN YOUR PREPARED STATEMENT TODAY YOU REPEATED WORDS USED BY YOU BEFORE THE APPROPRIATIONS COMMITTEE ON MARCH 31ST AND I QUOTE:

> "GOVERNMENT CANNOT AND SHOULD NOT ATTEMPT TO ACCOMPLISH THE EMERGENCY PREPAREDNESS TASK ALONE. TO OBTAIN NEEDED INDUSTRY EXPERTISE IN PLANNING FOR AND RESPONDING TO ENERGY EMERGENCIES, WE ARE CONSIDERING REVITALIZING OF THE LONG DORMANT EXECUTIVE MANPOWER RESERVES -- THE EMERGENCY ELECTRIC POWER RESERVE, THE EMERGENCY PETROLEUM AND GAS RESERVE AND THE EMERGENCY SOLID FUELS RESERVE."

DOCUMENTS PREPARED BY THE DEPARTMENT OF ENERGY REGARDING THE EXECUTIVE MANPOWER RESERVE REFER TO THE USE OF THE RESERVE IN THE EVENT OF PRESIDENTIALLY DECLARED EMERGENCIES OTHER THAN LIMITED OR GENERAL WAR, OR THREATS TO NATIONAL SECURITY.

A. AS I UNDERSTAND THE TERMS OF THE DEFENSE PRODUCTION ACT PRESIDENTIALLY DECLARED EMERGENCIES ARE LIMITED TO THOSE RELATED TO MEETING DEFENSE NEEDS? AM I CORRECT?

B. ARE YOU STATING THAT THE DEPARTMENT ANTICIPATES ACTIVATING THE EXECUTIVE RESERVE TO MEET ENERGY SITUATIONS OTHER THAN DECLARED NATIONAL DEFENSE EMERGENCIES?

C. MIGHT THE EMERGENCY EXECUTIVE RESERVES BE USED IN NATIONAL DEFENSE EMERGENCY WHICH IS NOT "DECLARED" OR IN A CRISIS WHICH IS LESS SERIOUS THAN EVEN AN UNDECLARED NATIONAL DEFENSE EMERGENCY?

D. WOULD THE CLOSING OF THE STRAITS OF HORMUZ BE CONSIDERED A NATIONAL DEFENSE EMERGENCY?

E. WOULD THE 1973 ARAB OIL EMBARGO BE CONSIDERED A NATIONAL DEFENSE EMERGENCY?

F. WOULD THE REDUCTION IN OIL SUPPLIES RESULTING FROM THE IRANIAN REVOLUTION BE CONSIDERED A NATIONAL DEFENSE EMERGENCY?

11. DON'T YOU RESORT TO THE EXECUTIVE RESERVES WHEN YOU WANT TO CREATE A CENTRALLY PLANNED ECONOMY FOR A WARTIME FOOTING? WHY WOULD YOU ADOPT SUCH A COMPREHENSIVE INTRUSION ON THE FREE MARKET IN THE EVENT OF AN OIL SUPPLY INTERRUPTION, ASSUMING YOU HAD THE AUTHORITY TO ACTIVATE THE RESERVES IN SUCH A SITUATION?

12. YOU HAVE PLACED EMPHASIS ON USE OF EXECUTIVE MANPOWER RESERVE. IN RESPONSE TO A QUESTION FOR THE RECORD AT THE APPROPRIATIONS COMMITTEE ON THE NEED FOR ADDITIONAL STATUTORY AUTHORITY, YOU STATED THAT,

> "WHILE THERE HAS NOT BEEN A FINAL JUDGMENT ON THIS ISSUE, IT APPEARS THAT EFFECTIVE USE OF THE RESERVES BY DOE WOULD BE ASSISTED BY NEW OR AMENDED LEGISLATION DEALING WITH THE SUBJECTS OF CONFLICT OF INTEREST, ANTITRUST AND, PERHAPS, ADVISORY COMMITTEES. SPECIFIC PROPOSALS DEALING WITH THE DEFENSE PRODUCTION ACT, THE DEPARTMENT OF ENERGY ORGANIZATION ACT, AND THE U.S. CRIMINAL CODE, AMONG OTHERS, ARE BEING EXAMINED BY DOE WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND THE EMERGENCY MOBILIATION PREPAREDNESS BOARD (EMPB).

   A. WHEN DO YOU EXPECT THIS REVIEW TO BE COMPLETED?

   B. ARE THE ISSUES YOU RAISE GENERAL TO THE EXECUTIVE MANPOWER RESERVE, OR ARE THE ISSUES SPECIFICALLY RELATED TO THE DEPARTMENT OF ENERGY?

13. I UNDERSTAND THAT, UNDER CURRENT LAW, THE ANTI-TRUST LAWS AND THE CONFLICT OF INTEREST LAWS APPLICABLE TO GOVERNMENT REGULAR AND SPECIAL EMPLOYEES, AS WELL AS THOSE APPLICABLE SPECIFICALLY TO EMPLOYEES OF THE DEPARTMENT OF ENERGY, ARE SERIOUS IMPEDIMENTS TO THE USE OF THE EMERGENCY EXECUTIVE RESERVES.

   A. WOULD YOU PLEASE DESCRIBE HOW THESE LAWS WOULD APPLY TO THE EMERGENCY EXECUTIVE RESERVES.

   B. DOES THE ADMINISTRATION INTEND TO ASK CONGRESS TO EXEMPT THE EMERGENCY EXECUTIVE RESERVES FROM THE ANTI-TRUST LAWS AND CONFLICT OF INTEREST LAWS?

   C. SPECIFICALLY, WHAT IS THE ADMINISTRATION'S PROPOSAL IN THIS REGARD AND WHEN WILL IT BE SENT TO US?

14. Both the DOE and FEMA have expressed serious reservations to my staff about the legality of using the Emergency Executive Reserves in situations other than Presidentially-declared national defense emergencies of a military nature.

A. What role does the DOE envision for the Emergency Executive Reserves in a petroleum disruption that is NOT a declared national defense emergency such as?

(1) an interruption of 1-2 million barrels per day of U.S. oil imports which is not related to military needs

(2) a domestic natural disaster like an earthquake

B. Does the Administration intend to ask Congress to provide such authority? If so, when? Specifically, what would the Administration's proposal be?

15. A document supplied to my staff describes the functions of the Emergency Executive Reserves in a declared national defense emergency to include (1) formulating, coordinating and implementing energy supply programs; (2) representing energy supply industries before Federal agencies to obtain critical resources; (3) helping to allocate and distribute energy resources; and (4) maintaining communications among energy industries, energy consumers, and government agencies.

A. The formulating of energy supply programs sounds like the Reserves would actually be principals in setting national policy for national defense emergencies. Is it the Administration's intention to turn over the management of energy emergencies to the Emergency Executive Reserves in a declared national defense emergency?

B. MATERIAL SUPPLIED TO THE COMMITTEE SAID THAT THE RESERVES WOULD BE USED FOR "FORMULATING, COORDINATING, AND IMPLEMENTING ENERGY SUPPLY PROGRAMS." DO YOU HAVE ANY INTENTION TO USE THEM TO SET POLICY?

C. WHAT WOULD THESE EXECUTIVE RESERVES FURNISH YOU THAT ADVISERS AND CONSULTANTS WOULD NOT?

16. One of the documents provided to the Committee is the "Emergency Petroleum and Gas Administration Management Review" dated November 9, 1981, which states in Appendix E, page 3, that oil supply disruptions from major foreign oil exporting countries could lead the Secretary of Energy to trigger partial activation of the Reserves even in a non-wartime situation.

Is that your intention?

17. In 1973 during the Arab Oil Embargo, didn't the oil industry (API) oppose activation of the Executive Manpower Reserves for the propane allocation program. Wouldn't they likely oppose it again? As these are volunteers, what is the chance you will get them in a non-wartime emergency?

18. ALSO, MR. VAUGHAN, YOUR PREPARED STATEMENT TODAY REPEATED YOUR EARLIER WORDS THAT,

> "THE RESERVES COULD PROVIDE A ROLE FOR BOTH ENERGY PRODUCERS AND CONSUMERS AS WELL AS FOR STATE AND LOCAL GOVERNMENTS, FINANCIAL INSTITUTIONS, AND OTHER BUSINESSES, ON A VOLUNTEER BASIS, WITHOUT ESTABLISHING A PERMANENT BUREAUCRACY."

YOUR WORDS SUGGEST THE USE OF THE MANPOWER RESERVES ON A "VOLUNTARY BASIS," WHAT DO YOU ENVISION?

19. A memo dated September 21, 1981, on "DOE Headquarters Staff Meeting with Emergency Electric Power Administration (EEPA) Field Organization" complains that Electromagnetic Pulse (EMP) training and course development should be given a lower priority until the field organizations attain a State of general readiness.

EMP is the product of atomic blasts, is it not? To what extent is your Executive Manpower Reserves activity really part of the Administration's efforts to bolster our civil defense plans for nuclear war?

20. If participating companies are compensated financially under "fair sharing," on what basis will the amount of compensation be computed?

21. Does the IEA's Emergency Sharing System conflict with the EEC's and NATO's Emergency system. Is there a potential problem?

22. Does the IEA's definition of emergency stocks exaggerate emergency stock levels?

23. Do producer contract destination restrictions potentially present a problem for IEA's Emergency Sharing System?

24. Does the forthcoming IEA Emergency Sharing System test scheduled for the Spring of 1983 encompass price problems?

25. Is the IEA considering development of a coordinated stock management policy?

26. On page 3 of Assistant Secretary Thomas' statement he states that,

> "Market price effects may operate to achieve this level of demand restraint in the United States. In addition, the United States has adequate statutory authority for various demand restraint activities."

a. What statutory authority is being referred to?

b. What types of activities could be conducted under that authority?

c. Would those activities require oil company participation?

27. On page 6 of Assistant Secretary Thomas' statement he states that,

> "As the IEA plans to rely primarily on market mechanisms, reinformced if necessary by certain government meausres ..." etc.

a. What is meant by "primarily"?

b. What is meant by "reinforced if necessary"?

c. What is meant by "certain government measures"?

d. How would it be determined when to rely "primarily on market mechanisms, and when to intervene?

e. How would it be determined what type of "government measures" to implement?

28. What types of activities could the oil companies participate in, under authority of Section 251 of EPCA, short of a 7 percent trigger being reached?

IEA SUBTRIGGER

29. Following adoption of the December 10th Decision by the IEA the United States issued a statement which you quoted that "The Decision establishes a basis for future IEA consultations, and I emphasize Consultations, in the event of sub-trigger supply disruptions. However, it does not commit IEA countries in advance as to the specific actions which they might take in such circumstances."

The question is not whether the commitment is in advance but the question is whether the IEA has the ability to require the United States to take mandatory actions in a subtrigger situation.

For example in testimony before the House Subcommittee on Fossil and Synthetic Fuels on March 10th the IEA Executive Director, Dr. Ulf Lantzke, stated that should a supply disruption develop the Executive Director may"decide to activate submission of Questionaires A and B, consistent with procedures established for the emergency allocation system".

A. Am I correct that he can do so at his own initiative?

B. Am I not also correct that he can initiate submission of such questionaires in the absence of belief that the seven percent trigger is likely to be activated?

C. Does this not constitute an expansion of the use of the questionaires beyond the point previously agreed to by the United States?

30. Moreover, the IEA Director stated that "any measures which are agreed upon by the Governing Board will be applied on an IEA-wide basis, although the detailed methods of implementation will be decided by governments in accordance with national law and the IEP." This implies that in the sub-trigger situation the IEA Governing Board could decide to require action by the member States including the United States; and I recognize that the United States is a member of that Board. Nevertheless would the United States be governed by a majority of that Board?

31.

A. CONVERSELY, IF THE ANSWER TO QUESTION 30 IS NEGATIVE, IS IT TRUE THAT NO IEA COUNTRY IS UNDER A BINDING OBLIGATION TO AGREE TO ANY ACTION THAT THE IEA GOVERNING BOARD MAY CHOOSE TO TAKE IN RESPONDING TO THE SITUATION?

B. DOES THE U.S. EFFECTIVELY HAVE A VETO OVER ANY IEA SUB-TRIGGER DECISIONS MADE PURSUANT TO THE DECEMBER 10 AGREEMENT?

32.

A. DOES THE ANTITRUST DEFENSE CONTAINED IN SECTION 252 OF EPCA EXTEND TO ANY ACTIONS THAT MIGHT BE TAKEN BY OIL COMPANIES IN RESPONSE TO A SUB-TRIGGER SHORTAGE?

B. DO YOU KNOW WHETHER THE OIL COMPANIES WOULD AGREE WITH YOUR ANSWER?

NATIONAL EMERGENCY SHARING ORGANIZATION

33. BACKGROUND MATERIALS INDICATE THAT EACH IEA PARTICIPATING COUNTRY HAS ITS OWN NATIONAL EMERGENCY SHARING ORGANIZATION, WHICH IS RESPONSIBLE FOR DEALING WITH OIL EMERGENCY MATTERS WITHIN THAT COUNTRY. IT ALSO ACTS AS THE LIAISON WITH THE IEA IF AN OIL ALLOCATION PROGRAM IS ACTIVATED DURING AN EMERGENCY.

A. IS IT CORRECT THAT THE NATIONAL EMERGENCY SHARING ORGANIZATION, OR "NESO," SIMPLY CONSISTS OF CERTAIN FEDERAL OFFICIALS AT DOE AND OTHER FEDERAL AGENCIES WHO WOULD HAVE DECISION-MAKING RESPONSIBILITIES IF THE IEA OIL SHARING PROGRAM WERE TRIGGERED?

B. NESO IS NOT NOW, AND NEVER WILL BE A SEPARATE ENTITY, ISN'T THAT CORRECT?

IF AN EMERGENCY OCCURS AND THE IEA PROGRAM IS ACTIVATED, IS IT YOUR INTENTION TO INCLUDE MEMBERS OF THE EXECUTIVE MANPOWER RESERVES IN THE OPERATIONS OF NESO?

C. IN MR. VAUGHAN'S RECENT RESPONSES TO WRITTEN QUESTIONS FROM THE INTERIOR APPROPRIATIONS SUBCOMMITTEE, HE STATED THAT DOE EXPECTS TO HAVE AN INTERIM NESO MANAGEMENT PLAN BY APRIL 30, 1982. IS THAT PLAN AVAILABLE NOW?

D. WOULD NESO OPERATE ONLY IF THE IEA OIL SHARING PROGRAM WERE TRIGGERED, OR WOULD IT OPERATE IN RESPONDING TO LESS SEVERE SHORTAGES?

E. CAN YOU GIVE US SOME IDEA, NOW, ABOUT HOW BROAD NESO'S RESPONSIBILITIES WILL BE? FOR EXAMPLE, IF THE INTERNATIONAL ENERGY PROGRAM WERE ACTIVATED, COULD NESO DECIDE WHETHER THE SPR SHOULD BE USED TO REPLACE OIL IN TRANSIT THAT WAS DESTINED FOR THE U.S. BUT DIVERTED TO OTHER COUNTRIES?

NATIONAL OIL BOARD

34. Mr. Vaughan's testimony states that DOE is developing an operation plan for using the National Oil Board.

A. In background materials submitted to the Energy Committee, DOE stated that an in-house test of the operation plan for the National Oil Board will be conducted in August. How will the test be conducted?

B. How does DOE intend to coordinate the decisions and activities of the National Oil Board and the National Oil Sharing Organization in the event that both the NATO and IEA oil sharing programs are activated in response to a severe international oil emergency?

PRIVATE STOCKPILES

35. MR. VAUGHAN'S TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS ON MARCH 10, 1982, STATES THAT --

> "WE ARE SEEKING TO ENCOURAGE THE BUILDUP OF PRIVATE STOCKS BY SUPPLIERS AND LARGE CONSUMERS BEFORE AN EMERGENCY, AND WE ARE WORKING TO REMOVE DISINCENTIVES FOR PRIVATE STOCKBUILDING."

SUBSEQUENTLY, ON MARCH 31ST HIS TESTIMONY BEFORE THE APPROPRIATIONS COMMITTEE, WHICH YOU REPEATED TODAY, STATED THAT --

> "IN ADDITION TO OUR COMMITMENT TO THE SPR, WE WANT TO ENCOURAGE THE BUILDUP OF PRIVATE STOCKS BY SUPPLIERS AND LARGE CONSUMERS BEFORE AN EMERGENCY, AND WE ARE WORKING TO REMOVE DISINCENTIVES FOR PRIVATE STOCKBUILDING."

IN HIS RESPONSE TO QUESTIONS FOR THE RECORD THE DEPARTMENT STATED:

> "WE ARE INDENTIFYING PROSPECTIVE OPTIONS TO BE EVALUATED. THESE WILL LIKELY INCLUDE FEDERAL FINANCIAL INCENTIVES AND THOSE WITH LITTLE OR NO BUDGETARY IMPACT, INCLUDING REMOVING EXISTING DISINCENTIVES. WE EXPECT TO COMPLETE THIS WORK BY THE END OF JUNE AND SHALL BE GLAD TO SHARE THE LIST OF OPTIONS WITH YOU THEN.
>
> IT SHOULD BE EMPHASIZED THAT THIS PROJECT IS A STUDY -- THERE HAS BEEN NO DECISION BY THE DEPARTMENT TO RECOMMEND ANY PARTICULAR OPTION, NOR CAN IT BE ASSUMED THAT ANY SUCH RECOMMENDATION WILL BE FORTHCOMING. THE ONLY POINT THAT HAS BEEN DECIDED IS THAT THESE ARE IMPORTANT ISSUES WHICH DOE BELIEVES SHOULD BE STUDIED."

IN OTHER WORDS "NO DECISION HAS BEEN MADE". YET ONLY THIS MORNING ASSISTANT SECRETARY HORMATS EXPRESSED CONCERN THAT --

> "THE DRAWDOWN OF PRIVATE OIL STOCKS IN RESPONSE TO HIGH INTEREST RATES AND FALLING CONSUMPTION (130 MILLION BARRELS SINCE THE BEGINNING OF THE YEAR) IS LIKELY TO END SOON (ALTHOUGH JUST HOW SOON REMAINS A MATTER OF DISAGREEMENT AMONG FORECASTERS) AND WILL RESULT IN AN INCREASE IN DEMAND FOR CRUDE SUPPLIES."

PRIVATE STOCKPILES (CONT'D)

LATER HE ADDED --

> "IN SUM, WE MUST NOT ALLOW SHORT-TERM MARKET DEVELOPMENTS TO LULL US INTO A FALSE SENSE OF SECURITY ABOUT SUPPLIES. WE ARE BECOMING CONCERNED THAT OIL COMPANIES MAY BE DRAWING THEIR OIL STOCKS DOWN TOO FAR."

WE THEREFORE MUST ASK

A. WHAT INCENTIVES DO IN FACT NOW EXIST, IF ANY?

B. WHERE PRIVATE STOCKS DO EXIST AND WHAT PROTECTIONS OF LAW NOW EXIST?

C. UNDER VARIOUS STATE LAWS WOULD IT NOT BE POSSIBLE FOR A GOVERNOR TO ALLOCATE SUCH STOCKS AWAY?

D. WHAT IS YOUR RESPONSE?

PUBLIC INFORMATION

36. MR. VAUGHAN'S TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS ON MARCH 10TH STATES THAT --

> IN ..... "DEVELOPING A PUBLIC INFORMATION PLAN FOR USE IN ENERGY EMERGENCIES ..... AN IMPORTANT PART OF THIS EFFORT IS TO ENCOURAGE SUPPLIERS AND CONSUMERS, AS WELL AS STATE AND LOCAL GOVERNMENTS, TO DEVELOP THEIR OWN CONTINGENCY PLANS."

SUBSEQUENTLY, ON MARCH 10TH AND AGAIN HERE TODAY HE STATED THAT - -

> "WE ARE DEVELOPING A PUBLIC INFORMATION PLAN WHICH WILL LEAD TO GREATER PUBLIC UNDERSTANDING OF THE NEED FOR ENERGY EMERGENCY PREPAREDNESS BEFORE A CRISIS OCCURS, AND WHICH WILL PROVIDE EFFECTIVE COMMUNICATIONS DURING A CRISIS."

IN HIS RESPONSE FOR THE RECORD YOU STATED THAT - -

> "REVISIONS TO THE DRAFT EMERGENCY PUBLIC INFORMATION PLAN BEING DEVELOPED BY A DOE INTRA-AGENCY TASK FORCE WILL EMPHASIZE BOTH THE IMPORTANCE OF STATE, INDUSTRY, AND CONSUMER GROUP INVOLVEMENT IN FEDERAL CONTINGENCY PLANNING AND THE REQUIREMENT FOR FREE MARKET PREPARATION FOR ENERGY EMERGENCIES."

HE THEN ADDED THAT,

> "INFORMATION EXCHANGES BETWEEN THE FEDERAL AND STATE GOVERNMENTS, AND AMONG STATES, LOCAL GOVERNMENTS, PRIVATE ORGANIZATIONS AND INDUSTRY GROUPS, WILL BE CRITICAL TO AN ACCURATE ASSESSMENT OF THE DIMENSION, AND DURATION OF AN ENERGY SHORTAGE, AND WILL BETTER ENCOURAGE PRECISE REMEDIAL RESPONSES AMONG THESE GROUPS AND THE PUBLIC. SERIOUS INFORMATIONAL LAPSES AND INACCURACIES UNDERMINED THE ABILITY OF THE FEDERAL GOVERNMENT IN PAST EMERGENCIES TO ADEQUATELY PROMPT AND SUSTAIN PUBLIC PARTICIPATION IN UNDERTAKING REMEDIAL MEASURES, AND OUR EMERGENCY PUBLIC INFORMATION PLAN SEEKS TO REDRESS THAT SITUATION."

WHILE BETTER PUBLIC EDUCATION IS IMPORTANT,

A. WHEN DO YOU EXPECT TO HAVE YOUR FIRST OFFICIAL MEETINGS WITH THE STATES?

PUBLIC INFORMATION (CONT.)

B. WHAT EVIDENCE IS THERE THAT THE STATES WILL REFRAIN FROM EXERCISING THEIR RESPECTIVE EMERGENCY POWERS?

C. WHAT DO YOU PROPOSE TO DO IF THE STATES INDIVIDUALLY ALLOCATE OR IMPOSE PRICE CONTROLS?

D. WOULD YOU SUPPORT FEDERAL PREEMPTION?

37. Closure of State Energy Offices

1) One of the documents supplied to the Committee is a memo dated March 31, 1982 to Ron Winkler on "Emergency Public Information Program (EPIP): Meeting with National Governors' Association", which describes a meeting between W. Lorn Harvey (Program Manager of the Plans Development Program, Energy Contingency Planning) and staff from the National Governors' Association. The memo suggests that your efforts to involve the States in the Emergency Public Information Program may be thwarted because Administration budget cuts are resulting in closures of State Energy Offices.

The memo says:

> "2. The State Energy Offices are undergoing considerable changes as the consequence of Administration emergency management and funding policies. Some, as in New Hampshire, are closing. Others are reducing personnel and assigning emergency functions to individuals (usually on the Governor's staff) as one of many assignments. Pressed for facts, however, the NGA could not produce them, so we have no precise sense of how radical or pervasive these changes are. It might be worth the effort (perhaps through the Liaison and Emergency Reserves Branch) to find out -- with certainty."

Have you found out what impact the President's budget will have on the State Energy Offices you intend to cooperate with?

STRATEGIC PETROLEUM RESERVE

38. Mr. Vaughan in your testimony you are strongly opposed to the requirement in Amendment 1354 to S. 2332 for submission of a new SPR Distribution Plan stating that --

> "The current SPR Distribution Plan, which became effective November 15, 1979, following Congressional review, provides the President with ample flexibility in using the SPR to respond to a severe energy supply emergency."

I note that you also opposed the SPR study requirement in the amendments to S. 2332.

I would point out that we are in agreement that there is a need for flexibility in the intended uses of oil from the Stragtic Petroleum Reserve. However, the SPR is central to our energy emergency preparedness. Yet the alternative drawdown approaches for use of the SPR do not exist because they still are being defined. As your response to my earlier written question highlights --

> "The Department seeks constantly to assure that candidate emergency response options are evaluated regularly and carefully. Such evaluation permits us to incorporate options offering improvements into operating programs which we could implement in an emergency.
>
> In this context, there is a current study of SPR drawdown approaches underway. While we have not completed the plan for this study, the candidate alternative approaches will likely include, at a minimum, examination of the influence of various SPR drawdown strategies on the behavior of private inventories and the relative impact of SPR sale through a futures or option market.
>
> The workplan for this study will be completed by early June of this year. We would be happy to send you a copy at that time."

And we would like to see the results of that study. But it is precisely because of the work you have undertaken on the, first, the use of the SPR and, second, the distribution management plan, that the Congress is suggesting the need for its review.

A. Would you comment?

B. How and on the basis of what criteria would the decision on the method of SPR use (i.e., auction, allocation, etc.,) be made? What would be the ends which SPR use would attempt to serve?

C. Does the administration contemplate the use of the SPR or other stocks subject to its control in order to moderate excessive price increases during an interruption?

D. Does the administration envision using the SPR to compensate U.S. private companies under "fair sharing" if the IEA initiate the IEP? If so, what price will the companies pay for this oil?

E. What considerations have been given to coordinating draw-down of SPR stocks with draw-down of those of the private sector?

F. Will the Congress, in fact, receive an SPR draw-down plan and when? In its response to GAO's contingency planning report DOE indicated that it did not intend to draw up such a plan. DOE proposals now indicate an intent to do so. Has DOE changed its opinion or do they intend to study the options without developing a specific plan?

39. Other than to meet the United States' obligations under IEA, are there energy emergency circumstances under which the Department of Energy would recommend to the President that we use the SPR? Admitting that we cannot foresee the nature of future emergencies, could you describe possible scenarios in which the SPR would be used?

40. Is there a danger that changes in the pattern of U.S. consumption of petroleum products may alter our commercial distribution system and make distribution of SPR oil less efficient? If so, what are we planning to do about this problem?

41. You told the Committee in answers to questions submitted for the record that the response to the RFP you issued on February 10, 1982, for worldwide surge storage of DOE crude oil "will provide some indicators of the types, quantities, and costs of private sector storage which would be offered for interim storage." What have you determined?

42. One of your objections to interim storage is the "possible displacement of private stocks". How can that be -- the interim storage proposal calls for storing oil sooner, not in greater quantity, than what the Administration proposes to do?

Besides, Ted Eck, chief economist of the Standard Oil Company of Indiana told the Committee on April 23:

> Dr. Eck. I am a little concerned by the apparent dichotomy between federal storage and private storage. Our private storage is primarily for seasonal purchase. Essentially we have to always be ready for the hundred year winter which we start at every year, but this primary motivation for storage is seasonal, and then there are some operational problems. What if the Suez Canal goes down or whatever it is? But we really don't maintain in industry a national catastrophe storage. We just don't have that, and so frankly I can't see any impact of the increase in SPR fill on our inventory policies whatsoever, just none. In fact, you could almost argue in theory it would be the other way around, that if we really thought there were a big enough federal program, then we might be encouraged to have more private because one of the fears we have had with private stocks is in the event of an emergency someone would take these private stocks and nationalize them or whatever, so I really don't see an impact that is adverse on private inventory behavior.

Do you disagree with Mr. Eck?

43. You also oppose the interim storage amendment because of the potential for fraud and theft. Aren't you capable of writing commercial contracts that will protect the government's interest against fraud and theft?

You issued an RFP on February 10, 1982, seeking temporary surge storage (up to one year) in private facilities worldwide. Why didn't the fear of fraud and theft inhibit you from issuing that RFP which sought temporary storage capacity even in foreign places, such as Rotterdam?

44. On page 8 of your statement you avoid commenting on the amendments prepared to S. 2332 and say, "In our view, it is not in the national interest to allow legislation preserving that participation to become entangled in a debate over aspects of domestic energy policy."

What is your view of the Jackson amendment as related to filling the SPR more rapidly by using interim storage facilities?

Isn't our SPR fill policy related to what you are doing at the international level?

Questions for Deputy Assistant Attorney General Carr
Hearing on S. 2332
May 6, 1982

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45. How many times in IEA's history have the U. S. reporting companies submitted Questionnaire A? Please provide the specifics (type of supply interruption, duration of the questionnaire submission) for the hearing record.

46. What happens if the IEA Secretariat wants to activate Questionnaire A? Do you have to issue any sort of antitrust clearance? How many times has the Department of Justice done so? Have they ever asked you to issue a clearance letter and you have refused?

47. Last summer, the IEA convened some meetings to "consult" with the oil companies, including some U. S. companies, on possible subcrisis mechanisms. Did the Department of Justice issue any sort of clearance for the U. S. companies to participate?

48. In your opinion, what types of activities could the oil companies participate in, under authority of Section 251 of EPCA, short of a 7 percent trigger being reached? Would the Department of Justice issue the necessary clearances for oil company participation -- with antitrust immunity -- for any type of activities short of reaching the trigger?

QUESTIONS ON S. 2332

For Mr. Carr:

49. On page 8 of your testimony you state that "both industry and the U.S. government had concluded that the antitrust defense in Section 252 was applicable only to the allocation and information provisions of the IEP Agreement and did not cover company actions to carry out "subcrisis" allocation schemes." I would like to ask all of the witnesses from the Administration

a. As a matter of statutory construction, could the antitrust defense of Section 252 ever be construed to be applicable to any action by an oil company pursuant to the December 10, 1981 Agreement, other than submission of questionnaires A and B? Please provide the Committee with a thorough legal analysis to support your answer.

b. If the United States Government, pursuant to the December 10 Agreement were to agree at the IEA Governing Board to implement any so-called "measures to supplement market forces" as specified in the agreement to be applied on an IEA-wide basis, what would be the legal authorities of the Federal government under Section 251 and the antitrust defense immunities under Section 252 for any Federal orders to U.S. oil companies to implement such measures?

c. What is the intended legal significance of the clause in the December 10 Agreement stating "the detailed methods of implementation (of measures to supplement market forces) will be decided by governments in accordance with national law and the IEP"? What national law is intended to apply? What is the intended legal construction of "national law and the IEP"? Does the combination of national law and IEP mean that there is an incorporation of U.S. domestic legal authority in EPCA for the IEP under the subcrisis managment agreement?

Department of Energy
Washington, D.C. 20585

May 10, 1982

Honorable James A. McClure
Chairman, Committee on Energy
  and Natural Resources
United State Senate
Washington, D.C. 20

Dear Mr. Chairman:

Enclosed are responses to questions submitted to Assistant Secretaries of Energy William Vaughan and Henry Thomas, following their appearance at the Committee's May 6, 1982, hearing concerning contingency plans for oil disruptions.

These responses represent the views of the Department of Energy. Because of the short time to respond, we have not been able to coordinate these responses fully with the Administration as a whole.

Sincerely,

William A. Vaughan

William A. Vaughan
Assistant Secretary for
Environmental Protection,
Safety and Emergency Preparedness

Enclosures

cc: Mr. Al Astrin
  Committee on Energy
    and Natural Resources

IMPACT OF DISRUPTIONS

QUESTION 1: DOE intends to rely on a market oriented approach to a supply interruption, rather than on Government intervention such as allocation or mandatory demand restraint. Has DOE estimated to what levels prices would rise during an interruption? What might the market-clearing price be during a worldwide shortage of one, three or ten million barrels a day? For instance, what are the implications of these prices for the economy or for income distribution? On the other hand, government intervention is not without cost and inefficiency as shown from the past few years. Have these tradeoffs been assessed?

ANSWER: A number of studies have been done, both inside and outside of DOE, of the impact of various supply interruptions, including their effects on the economy. A sample list of such studies is attached. In addition, DOE is presently studying the economic effects of energy supply disruptions in the current world energy and economic context.

The price to which oil might rise in any particular shortage would depend on a vast array of variables at the time of the shortage. Depending on one's assumptions as to available domestic and world inventories and production surge capacities, and elasticities of demand, the price of oil in a worldwide shortage of 1, 3 and 10 MMB/D might be within the following ranges (assuming a current price of $34):

1 MMB/D: $39/$40
3 MMB/D: $50/$55 to $42/$43
10 MMB/D: $86/$192 to $78/$145

These prices, however, assume that there is no (or only 1 MMB/D) stock drawdown/surge production capabilitiy worldwide, which is not the case, and further assumes no use of the SPR. The likelihood of a worldwide shortage of the greater magnitude suggested in this question is relatively remote.

As the question denotes, the Government has in the past been inefficient in allocating supplies. The adverse consequences of this effort were detailed in Assistant Secretary Vaughan's March 23, 1982, letter to Representative James T. Broyhill and an accompanying memorandum (a copy of which is attached).

ATTACHMENT

Q-1. Impact of Disruptions

1. "Macroeconomic Effects of Petroleum Supply Disruptions," Volume I & II, U.S. Department of Energy, Energy Information Administration, March 1979.
2. "Simulation Study of Eight Petroleum Supply Disruption Scenarios," U.S. Department of Energy, Energy Information Administration, April 1979.
3. "Filling the Strategic Petroleum Reserve: Its Price and Economic Effects," U.S. Department of Energy, Energy Information Administration, March 1980.
4. "An Assessment of Potential U.S. Petroleum Supply Shortfalls, 1978-1990," U.S. Department of Energy, Energy Information Administration, September 15, 1978.
5. "Reducing U.S. Oil Vulnerability - Energy Policy for the 1980's," U.S. Department of Energy, Assistant Secretary for Policy and Evaluation, November 10, 1980.
6. "Short-Term Energy Outlook," U.S. Department of Energy, Energy Information Administration, February 1982.
7. "Emergency Preparedness for Interruption of Petroleum Imports into the United States," A Report of the National Petroleum Council, April 1981.
8. "Mechanisms for Recycling Federal Tax Revenues to Individuals and Households in the Event of a Sudden Increase in the Price of Oil," U.S. Department of Energy, Office of Oil Supply Security, April 1981
9. "Responding to Hardships from Oil Supply Disruptions: Analysis and Administrative Issues," U.S. Department of Energy, Office of Energy Contingency Planning and Office of Policy, Planning, and Analysis, November 1981.
10. "Designing Methods for Distributing Petroleum During a Shortage and Selecting Standby Distribution Mechanisms," U.S. Department of Energy, Office of Regulatory Policy, May 14, 1979.
11. "The Energy Problem: Costs and Policy Options," U.S. Department of Energy, Office of Policy and Evaluation, May 23, 1980.
12. "Performance of the U.S. Petroleum Distribution System under Shortage Conditions: Implications for Contingency Planners," U.S. Department of Energy.
13. The Economic Effects of Alternative Federal Responses to a Major Oil Shortfall," A Report of the Technical Committee of the Petrochemical Energy Group on an Analysis by Data Resources, Inc., June 1981.
14. "Legal Constraints on Market Response to Supply Disruptions," (preliminary draft), Rand Corporation.

Attachment to Question #1

Department of Energy
Washington, D.C. 20585

MAR 23 1982

Honorable James T. Broyhill
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

Dear Mr. Broyhill:

I appreciated your letter of March 16, 1982, and your thoughts concerning the need for effective energy emergency preparedness which avoids the mistakes of the past. As you know, I am also of the opinion that the Standby Petroleum Allocation Act of 1982 is unnecessary.

In response to your request for an analysis of what energy emergency programs the United States should avoid, and which it should pursue, I am enclosing a short memorandum prepared by my staff on this subject. While it is a preliminary analysis, and much more could be described with respect to a number of topics, I thought you would want to see the document as as soon as possible so that you would know more about the energy contingency planning efforts which we now have underway. Naturally, should you or your staff desire further information or elaboration on any of the items, we would be delighted to furnish that to you.

Secretary Edwards and I share your concern that America be prepared to respond appropriately to energy shortage situations. Working cooperatively with members of Congress, other Federal agencies, state and local governments, and the general public, we at the Department of Energy are confident that we will be able to develop programs which will keep America prepared.

Kind personal regards.

Sincerely,

William A. Vaughan

William A. Vaughan
Assistant Secretary
Environmental Protection, Safety,
and Emergency Preparedness

Enclosure

cc: Honorable John D. Dingell
Chairman, Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515

[illegible]

U.S. House of Representatives
Committee on Energy and Commerce
Room 2125, Rayburn House Office Building
Washington, D.C. 20515

March 16, 1982

Honorable William Vaughan
Assistant Secretary of Energy
for Environmental Protection,
Safety and Emergency Preparedness
The Department of Energy
Washington, D.C. 20585

Dear Mr. Vaughan:

As you well know, the Congress has recently passed the bill, S. 1503, the Standby Petroleum Allocation Act of 1982. I have consistently opposed this bill as it would revive the price and allocation programs which twice turned relatively minor oil disruptions into disasters. The last "emergency" lasted eight years. Because I want to assure we avoid the mistakes of the past, I have recommended to the President that he veto the SPAA.

But I am concerned that we must be prepared as a Nation should another international incident provoke a disruption in our imported oil supplies. Naturally, I am relieved by the reduction in our dependence upon oil imports. The President deserves considerable credit -- for when he decontrolled oil and dismantled the allocation rules, he spurred a great surge in oil production and in conservation. As a result of his energy policy, the Nation is now importing 20 percent less than when he took office.

Since Emergency Preparedness is your area of expertise, I would request that you prepare an analysis of what emergency programs we should pursue -- and which we should avoid. I would hope that the analysis you prepare pursuant to this request be made available so that the Congress and the public may have a better understanding that we will be prepared if the unfortunate occurs.

Whatever the President decides with regard to the SPAA, your analysis will be of great assistance to me.

Thank you for your assistance in advance.

Sincerely,

Jim Broyhill

James T. Broyhill
Ranking Minority Member
Committee on Energy and Commerce

PRELIMINARY ANALYSIS OF FEDERAL ENERGY EMERGENCY PREPAREDNESS STRATEGIES: THE EPAA EXPERIENCE AND CURRENT PROGRAMS AT THE DEPARTMENT OF ENERGY

Prepared by the:
Office of Energy Emergencies
Office of the Assistant Secretary for
Environmental Protection, Safety, and
Emergency Preparedness
United States Department of Energy

March 23, 1982

I. INTRODUCTION AND EXECUTIVE SUMMARY

With the recent Congressional action on the Standby Petroleum Allocation Act of 1982 (S. 1503) (SPAA), and the resulting debate over whether President Reagan should sign or veto this bill,[*/] much interest has been focused on the question of how the United States should prepare itself to respond to any potential energy emergencies, particularly oil supply disruptions. The Department of Energy's Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, which has the responsibility for developing the strategies and programs to address possible energy shortage situations, has carefully reviewed all of the arguments and proposals presented with respect to the SPAA. Based upon this review, the Department of Energy does not believe that the authorities provided by the SPAA are necessary to deal effectively with energy emergencies; indeed, as will be discussed in this memorandum, the SPAA would actually impair development of effective energy emergency preparedness programs, as well as create other administrative and regulatory problems.

Over the past decade, the United States has attempted to respond to energy emergencies with regulations, forms and bureaucracies. This approach, as most commentators now agree, did not work. By contrast, the Department of Energy is now developing a number of contingency planning programs and policies which are designed to facilitate market

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[*/] While dated March 23, 1982, this paper was substantially prepared just prior to President Reagan's veto of the SPAA.

responses and adjustments to oil supply disruptions. We are seeking to anticipate potential problems long before they occur, and to work cooperatively with all segments of our economy to prepare for and to avoid such difficulties.

In summary, additional legislative authority, such as the SPAA, is not needed for the following reasons:

A. The Nation's past experience with the Emergency Petroleum Allocation Act of 1973 (EPAA) demonstrates that price and allocation controls are the wrong way to deal with energy emergencies.

B. The Federal Government already has adequate authority to deal with energy emergencies, and is developing a number of programs to avoid or respond to such situations should they occur.

C. New legislation, such as the SPAA, would require adoption of new regulatory programs, data collection and increased bureaucracy to satisfy its requirements.

D. New legislation, such as the SPAA, would be a disincentive to the private sector to take those self-help steps which are essential to achieve energy emergency preparedness.

II. PROGRAMS TO AVOID: LESSONS FROM THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

A. Summary of the EPAA and the EPAA Regulatory Program

Federal authority to set prices for and to allocate petroleum products during the 1970's began as part of the broad, discretionary price authority established by the Economic Stabilization Act of 1970. Starting in the summer of 1971, controls were placed on most wages and prices. This program went through several "phases." Various factors, including the market distortions created by the wage-price control program, led to spot oil product shortages starting in the summer, 1972.

The Emergency Petroleum Allocation Act was enacted in response to the October 1973 Arab oil embargo. Under the EPAA, the President was directed to adopt a "temporary" program of price and allocation controls over crude oil, residual fuel oil and refined petroleum products, in order to "minimize" the adverse effects of shortages of these products. The EPAA also required that price and allocation controls were to accomplish, to the maximum extent possible, nine general objectives (which were, to some extent, mutually exclusive), including: protection of public health, safety and welfare; maintenance of public services and agricultural operations; preservation of the competitive viability of small refiners and independent petroleum marketers, and the minimization of economic distortion and unnecessary interference with market mechanisms.

The President's oil price and allocation authority under the EPAA was originally due to expire on February 28, 1975. However, this authority was extended by Congress on four separate occasions. The EPAA was finally permitted to expire on September 30, 1981. Thus, the EPAA's "temporary" program of oil price and allocation controls to meet a "temporary" oil emergency remained in effect for nearly eight years.

The price and allocation regulations adopted under the EPAA pervasively controlled nearly all aspects of the petroleum industry and markets. The rules dictated the distribution and price of crude oil and petroleum products at each point in the oil distribution system, from producers down to local gasoline retailers, and even down to many individual oil product consumers. Under the EPAA program, the Department of Energy initially "froze" all supplier/purchaser relationships as of 1973. Suppliers generally could not alter their sales and purchase arrangements without DOE approval. At the refinery level, the EPAA inaugurated a "buy/sell" program, which required large refiners to transfer crude oil to small refiners, and an entitlements program, which each month required refiners who purchased lower-cost domestic crude oil to make payments to refiners who purchased higher-priced foreign crude oil. Price controls not only limited the ceiling prices charged at every level of oil distribution, but also dictated which costs could and could not be included in those prices.

The EPAA was a counterproductive means of minimizing the adverse effect of oil shortages which actually increased United States vulnerability to oil shortages. It mandated a cumbersome and unworkable system of price and allocation controls which stimulated domestic oil consumption while discouraging domestic oil production. From 1973 to 1979 (before crude oil controls began to be phased out) oil drilling and production in the United States steadily declined while oil imports increased. Consequently, the United States became increasingly more dependent on insecure supplies of foreign oil, jeopardizing national security, balance of payments and national well being. The EPAA was also a failure during periods of actual oil shortages. There seems to be no doubt that the price and allocation regulations mandated by the EPAA were a principal cause of the regional gasoline and other fuel shortages experienced during the 1979 Iranian revolution. One DOE report noted:

> The gasoline lines observed in June and July, 1979, are examples of shortages created by a combination of price controls and allocation programs. Shortages occurred in metropolitan areas but not in rural areas since the supply shortfall changed consumption habits and reduced out-of-town travel. Giving farmers and other specified users first priority exacerbated the problem in metropolitan areas. An Analysis of Federal Government Energy Emergency Programs, Energy Policy Study Volume 5 (Energy Information Administration, U.S. Department of Energy, January 1980), p. 30, n. 34).

Other reports coming to similar conclusions include the following:

1. Report of the Department of Justice to the President Concerning the Gasoline Shortage of 1979, July 1, 1980.
2. Staff Report of the Bureau of Economics to the FTC, Petroleum Product Price Regulations: Output, Efficiency, and Competitive Effects (February 1981).
3. Report to the API, The Mandatory Petroleum Price and Allocation Regulations: A History and Analysis (May 1981).
4. Data Resources, Inc., The Economic Effects of Alternative Federal Responses to a Major Oil Shortfall, A Report of the Technical Committee of the Petrochemical Energy Group (June 1981).
5. GAO, Gasoline Allocation: A Chaotic Program in Need of Overhaul (April 23, 1980).
6. DOE, Report to the President on the Activities of Oil Companies Affecting Gasoline Supplies (July 24, 1979).
7. Senate Governmental Affairs Committee Report on DOE Gasoline Allocation Program, Senate Report No. 97-_____ (1981).
8. Cabot Consulting Group, Evaluation of the DOE's Gasoline Allocations Program, Final Report, Contract No. DE-AC01-79-PE-70037 (June 6, 1980).
9. U.S. Department of Transportation, Federal, State and Local Responses to 1979 Fuel Shortages (February 1981).

The EPAA regulations required oil jobbers to distribute oil on the basis of historic, frequently outdated base periods. This meant that areas with declining needs continued to receive their historic requirements of oil while long lines formed at gasoline stations in many urban areas.

The full costs of the EPAA, however, cannot be measured merely in reduced production of petroleum and time spent by motorists in gasoline lines. The "human" and financial cost of the EPAA due to requests for relief by small businesses, gasoline stations and others, whose petitions were ultimately denied or merely lost in the bureaucratic maze established pursuant to the EPAA, cannot be precisely fixed, and is one of the largest costs of this ill-fated program. Thousands of written and oral requests for interpretations, adjustments, assignments and other relief were filed with DOE during the period from 1973 to 1981. Despite diligent efforts by many FEO, FEA, ERA and other DOE employees, decisions were frequently delayed for months or years. Market-based efforts to adjust supplies of oil to meet changing market conditions were thwarted by these regulations. And efforts to obtain clarification of the regulations and their impacts were frequently in vain or received a contradictory response. Later, some of DOE's regulations were overturned by courts because they were ambiguous or because DOE personnel gave conflicting interpretations to the public.

B. The EPAA Program was Massive, Complex and Burdensome

The enactment of the EPAA in November 1973 was a virtual boon for the publishing industry. Very quickly, hundreds of pages of regulations in many loose-leaf volumes were promulgated to control prices and to allocate crude oil and refined petroleum products. In the eight years until the EPAA expired in September 1981, these regulations were amended through rulemaking literally hundreds of times. Almost 200 changes, or more than two amendments a month, were made to one regulation alone--Section 212.83--which regulated the prices refiners could charge for certain products. Refiners, suppliers and consumers were barraged by these constantly changing requirements, making planning and compliance a virtual impossibility.

During the Iranian revolution in 1979, DOE made no less than 27 changes to its motor gasoline and middle distillate allocation regulations, often on an ad hoc basis without benefit of regulatory analysis and prior public comment. In several cases, such as the crucial regulations concerning the base period for purposes of motor gasoline allocation, the regulatory amendments were made effective on issuance, with no advance notice and without the requirement for prior written comment. GAO Report EMD-80-34 (April 23, 1980), page 15.

In addition to the rules which were issued, a host of regulatory interpretations of the regulations were generated by the rules' complexity. The Office of Petroleum Operations was responsible for administering the allocation regulations, from the Washington, D.C., headquarters and from the various regional offices. Each of the numerous regulatory changes caused a multitude of telephone inquiries, averaging as many as 1200 per week during May and June of 1979 in one regional office alone. Similar increases occurred in the numbers of petitions received by the Office of Hearings and Appeals under which parties experiencing special inequities or hardships could apply for relief. During the period from March through September 1979, the OHA received over 15,000 such petitions. Despite extraordinary efforts by many officials, this torrent of regulations and requests for relief produced inevitable delays in resolving the petitions. The General Accounting Office determined in a 1980 study that 90 percent of the OHA headquarters backlog, and 21 percent of the regional office backlog, was over 6 months old.

Needless to say, the costs of this bureaucratic maze to the taxpayer and to those who had to comply with the regulations were immense. The frequency of amendments, and the uncertainty of how they would apply during actual emergencies, made it extremely difficult for refiners, dealers and ordinary consumers to make meaningful plans. DOE's regulations actually penalized those who did attempt to engage in prudent planning. DOE's special use limitation on propane, for example, prohibited companies from acquiring or accepting propane from their suppliers if inventories were above certain levels, whether propane was in short supply or not. Companies were also prohibited from consuming more propane for industrial and other uses than was used during the base period, even from their own supplies. This prevented some companies from fully utilizing propane they had stockpiled for a shortage, and almost certainly discouraged others from building inventories for future shortages. Moreover, the regulations provided little incentive for emergency planning. Refiners, dealers and large wholesale consumers were hesitant to build emergency stockpiles which, under the regulations, could be redirected away from them by DOE during a shortage. On the other hand, "priority" users, many of whom consumed large amounts of petroleum products, had little incentive to make emergency plans or to conserve because they were entitled to their full requirements in a shortage.

C. The EPAA Program Exacerbated Shortages, Dislocations and Dependence on Imported Oil Supplies

The Arab Oil embargo of 1973 reduced available crude oil supplies in the United States by approximately 7 percent, and the 1978-1979 Iranian revolution caused a reduction of crude supplies by about 5 percent or less. Yet the dislocations caused by these disruptions were greatly increased by the workings of the EPAA. The allocation regulations, which distributed products at various levels, favored certain "priority" users by granting them, in many cases, all the petroleum products they requested, while limiting other users to a fraction of the amounts they had used during the prior "base period." The use of such a fixed base period effectively prevented available product from being matched with actual demand at the time of a real shortage. This factor, coupled with the removal from available supplies of volumes for "priority" users and for the state emergency reserves, or "set-asides," led to serious regional shortages. Gasoline was directed to tourist and rural areas, where consumption had declined, and away from urban and other areas of increasing need. The excess supplies in one region could not be shifted to urban areas without a lengthy and costly appeal to DOE for approval. Meanwhile, DOE itself was intervening in the market with numerous orders redirecting oil products throughout the nation.

Thus, the allocation program lead to particularly severe shortages of specific petroleum products. Directions from DOE not to draw down inventories of gasoline during the spring of 1979, (44 Fed. Reg. 11202, 11203, Feb. 28, 1979), and to build up distillate stocks (at the expense of gasoline), (U.S. Department of Energy, Response Plan: Reducing U.S. Impact on the World Oil Market (April 1979), page 6), virtually guaranteed motor gasoline shortages in the Spring and Summer, 1979. Attempts by DOE to adjust the regulations to alleviate these imbalances by continuously revising the base period further confused the situation, as suppliers constantly tried to adjust their customer entitlements to meet the requirements of new customers assigned to them by DOE.

A major cost of these regulatory programs was the time and energy wasted while motorists waited in long gasoline lines. It has been estimated that as much as 144,000 barrels of gasoline per day may have been wasted by cars waiting in line in 1979.

The EPAA-mandated price controls also exacerbated the impact of shortages by holding the cost of gasoline, substantially below free market and world prices even during the actual shortage. Had prices been permitted to respond to demand, appropriate adjustments to consumption would have reduced demand to the level of available supplies. Throughout the period when the EPAA was in effect, artifically low prices for crude oil and refined products reduced the incentive for domestic petroleum production, as well as for conservation by consumers of petroleum products. The regulations discouraged investments in refinery improvements, since any costs saved from such capital expenditures had to be passed through to customers in the form of lower product prices. And the "entitlements" program, which required refiners who used lower-priced domestic crude oil to pay fees to refiners who used higher-priced foreign crude oil, encouraged refiners to buy foreign crude oil by, in effect, subsidizing such purchases. This directly increased the dependence of the United States on imports of foreign crude oil. In addition, the "buy-sell" program, by requiring large refiners to transfer crude oil to small refiners who often had limited gasoline production capability, also reduced available gasoline supplies.

Under the EPAA , the nation's dependence on imported oil increased from over 6.1 million barrels per day in 1974 to over 8.2 million barrels per day in 1978. By contrast, after President Reagan decontrolled petroleum in January, 1981, oil imports and consumption have decreased substantially, while domestic production has risen for the first time in almost a decade, and exploration for new domestic oil has increased to record levels.

As a result, OPEC's grip over the world oil market is steadily weakening, and the price of oil has declined markedly. Oil imports are down to 4.2 million barrels per day, almost 35% below 1981. Oil well completions hit a new record of 37,639 in 1981, a 39.3% increase over the 1980 total. Since the March, 1981 peak, the price of motor gasoline and home heating oil has declined recently, as has the spot market price of crude oil - - to well under $30 a barrel.

The effects of President Reagan's decontrol of oil prices and allocation are already clear: a major reduction in the nation's dependence on foreign oil and increased domestic production. The vigorous operation of the free market unshackled from counterproductive government control in only one year has eased the energy situation in the United States to a degree which provides real hope for United States energy security for the first time in over eight years.

D. The EPAA Imposed Severe Costs and Hardships

Although one of the objectives which the price and allocation regulations was supposed to achieve, according to the EPAA, was the "minimization of economic distortion," the regulations had precisely the opposite effect. Because they distorted normal market mechanisms and forced individuals to seek DOE approval for virtually every transaction (or to face the scrutiny of a subsequent audit), the regulations imposed inequities, hardships and unnecessary costs on many individuals, businesses, and non-profit organizations. In a statement before Congress, one economist estimated that the government's cost of administering the petroleum price, allocation and entitlements regulations alone was about $135 million annually over the life of the program. The direct cost of compliance on the private sector was estimated to be even more staggering -- with annual estimates ranging from $650 million to $2.7 billion. As aptly noted by this economist, "This is an awfully high price to pay for a system that creates shortages for you."

A few specific examples of the hardships created by the EPAA regulations (some of which were described in testimony before Congress on the SPAA)[1] are listed below:

1. A school district requested DOE approval to be assigned a new supplier, because the supplier had persistently defrauded the school district by billing the school district

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[1] Testimony of Roy N. Leidner on behalf of the Industrial Oil Consumers Group before the House Energy and Commerce Committee, Subcommittee on Fossil and Synthetic Fuels, July 28, 1981.

for more fuel than it delivered. The school district's petition noted that the supplier had been convicted of theft. Under the allocation regulations, the school district, however, needed the DOE's permission to obtain a new supplier. What probably seemed to the school district to be an open and shut case became an intense struggle with DOE. Despite the supplier's fraud, DOE initially refused to permit the school district to end its contract with the supplier. It was not until July 1, 1975, nearly four months after the school district had sought DOE permission to terminate the contract, more than a year after the court had made the determination of fraud, and after the school district had undertaken a costly appeal of the DOE's decision, that the DOE finally granted the school district's request.[2/]

2. All motor vehicle manufacturers conduct emissions and fuel economy tests, pursuant to Federal Environmental Protection Agency ("EPA") requirements. In order to standardize conditions under which certain of these tests are conducted, a "certification quality motor gasoline" is used, which is supplied by one oil company to all motor vehicle manufacturers for EPA testing purposes. This special gasoline is not sold at retail.

In 1974 the allocation regulations permitted auto manufacturers to purchase only the amount of certification gasoline which they brought in the 1972 base period, even

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[2/] Eagle Point School District No. 9, 2 FEA Para 83,118 (April 17, 1975), Appeal granted 2 FEA Para 80,622 (July 1, 1975).

though their needs had increased because of new EPA testing requirements. Beginning in February 1974, the supplier of the certification fuel and the automakers tried to obtain from the DOE permission to fill the motor vehicle manufacturers' requirements. Unless the automakers had sufficient certification fuel to complete satisfactorily all EPA tests by August 1, 1974, no 1975 model year vehicles could be shipped after August 1, 1974. This would have meant a shutdown of the entire automotive industry. However, on July 9, 1974, the DOE denied the request of the automakers for additional certification gasoline. Finally, on July 26, 1974, only five days away from shutdown, the DOE reversed its prior decision and permitted the automakers to obtain their needs of the certification fuel.

As a result of changes made by DOE to the base period, in 1979, the automakers again were faced with the same problem. And once again, it took a tremendous amount of time, effort and money to obtain permission from DOE for automakers to buy their required amounts of certification gasoline.

3. A North Carolina textile manufacturer received a letter in early 1979 from DOE requesting its cooperation in reducing industrial use of fuel oil. Wanting to do its part to help the national effort while complying fully with Federal price and allocation controls, the Company on March 27, 1979, submitted an application to ERA for permission

to use propane, which was at that time in abundant supply, to displace fuel oil. At the time the application was filed, propane was selling at approximately 19 cents per gallon.

Despite repeated efforts to obtain a decision, ERA took no action upon the request. Finally, on October 11, 1979, over six and one-half months later, ERA rejected the application on the grounds that "another energy source, which is in good supply, can be used." That other source was fuel oil, which only seven months earlier DOE had been urging industrial companies to conserve. To add to the irony, one day after ERA's letter was written, on October 12, 1979, DOE issued new regulations removing most restrictions on use of propane, to be effective the following January 1, 1980. By this time the price of propane had increased to over 60 center per gallon, making use of propane much less attractive than it had been several months earlier.

4. While propane was under allocation in the mid-1970's, an industrial corporation attempted to purchase its needs for the winters of 1976-7 and 1977-8, which consisted of over 3.0 million gallons for each season. At that time, allocations for propane were determined by a firm's purchases during the April 1972 - March 1973 base period. During this base period the corporation had purchased less than 1.5 million gallons, since the remainder of its needs were filled by previously stored inventory. Each summer pleas were made to DOE for

relief from the 1.5 million gallon base-period restriction. Permission, however, was not granted by DOE until December of each year -- to late to be of use for that winter. To meet its needs, the corporation was forced to purchase over 6.0 million gallons of foreign propane, at a much greater cost and with an adverse impact on the U.S. balance of payments during a period when ample supplies of cheaper domestic propane were available.

5. The regulations were so complex and pervasive that they could not be adequately enforced, and abuses were common. For example, DOE issued Special Rule No. 9 in May 1979 which allowed some farmers and other priority users to obtain 100% of their current requirements for diesel fuel and heating oil. According to press reports at the time, some of these individuals reportedly sold the excess diesel fuel and heating to oil dealers on the "black market." Moreover, the supplies diverted to these users inevitably increased the severity of the shortage to others, nearly causing the shutdown in the late spring and summer of 1979 of the Great Lakes shipping fleet, which relied on diesel oil. This would have interrupted shipments of critical raw materials for domestic industry. Truckers who were also dependent on these fuel supplies staged demonstrations protesting this shortage. In another case, a construction firm owner was able to obtain, from the state's "emergency" set-aside reserve, gasoline to fuel his construction vehicles and his three luxury cars. (These incidents were reported in the press: New York Times, p. B-2 (March 2, 1979), Washington Post, p. A-1 (July 26, 1979)).

6. A mining complex in a rural area had expanded its operations in 1979 and needed to increase its allocation of gasoline for the additional vehicles which it was operating. The company purchased gasoline at wholesale. Under the regulations, the only way the company could get the extra gasoline it needed was to buy it from retail outlets. Only three small rural retail outlets were located within 5 miles of the complex. Had the company tried to buy gasoline from these outlets, it would have exhausted the stations' supplies (which were tied to base period levels), leaving nothing for local residents. The company finally obtained permission from DOE to buy additional gasoline at wholesale, but only after a costly appeal process which took nearly a year. The order took so long to be issued that less than two months remained before the end of the one-year period for which relief had been requested.

III. THE SPAA CONTAINS MANY SIMILARITIES TO THE EPAA AND WOULD LIKELY LEAD TO MANY OF THE SAME PROBLEMS

A. The SPAA Authority is Contrary to the Administration's Market-Based Energy Policies

President Reagan, on a number of occasions, has taken the opportunity to state his unequivocal opposition to petroleum price and allocation controls (as well as his general opposition to burdensome Federal regulatory programs). For example, President Reagan's January 1980 Energy Policy Campaign Paper stated:

> I favor elimination ... of Federal energy allocation rules. I favor immediate elimination of all Federal price controls on oil. . . .

Most recently President Reagan spoke positively of the removal of price and allocation controls on oil in the State of the Union message when he said that:

> By deregulating oil we have come closer to achieving energy independence and helped bring down the cost of gasoline and heating fuel.

And the President's position is perhaps best summarized in the recent report entitled Promises--A Progress Report on President Reagan's First Year (January 1982), at page 22:

> PROGRESS: The Administration is opposed to energy allocation rules and opposed extension of the Emergency Petroleum Allocation Act. Market prices rather than government management will provide proper allocation in time of emergency. In addition, the Administration will continue to support the accelerated filling of a well-managed Strategic Petroleum Reserve and will encourage industry to accumulate petroleum reserves for their use. This known, predictable, constant policy allows energy consumers to make appropriate plans of their own and not be lulled into false security by a big federal program that won't work as well as the market-place when/if a shortage occurs.

Legislation such as the SPAA would send precisely the wrong signal to the private sector about the Federal Government's energy policies and would serve as a powerful disincentive to encouraging free market preparation for and response to energy emergency situations. An independent refiner, faced with the choice of negotiating an expensive long-term contract for crude oil now, or relying on spot market purchases and counting on a Federal Government bail-out, would be encouraged by the SPAA to take a chance on government regulation in the future. And an industrial plant engineer, wanting to put in alternate fuel facilities, or energy conservation equipment, or additional storage capacity, will find that his chances for getting scarce investment dollars from his management would be seriously harmed by the enactment of the SPAA. Once a company makes the decision to rely on the Federal Government in an emergency, the company becomes transformed into an advocate for use of such government authorities--another voice opposing the free market.

B. There are Many Similarities Between the SPAA and the Old EPAA

There are many problems with the SPAA. Through its requirement for regulations establishing a crude oil sharing program, intricate priorities among users, and Federal approval of State energy programs, this legislation would require the reestablishment of the vast myriad of Federal regulations over oil and an elaborate Federal bureaucracy with significantly larger manpower requirements than currently budgeted and authorized. This flies directly in the face of President Reagan's achievements, announced in the State of the Union Message, regarding the substantial reduction in Federal regulations:

> Together, we have cut the growth of new Federal regulations nearly in half. In 1981 there were 23,000 fewer pages in the Federal Register, which lists new regulations, than there were in 1980.

Some of the SPAA provisions which are particularly similar to those in the old EPAA, are the following:

-- SPAA Section 271 (Findings). This section contains the Congressional findings that national security and the economic well-being of the country require the President to have authority to allocate "petroleum products" during a severe petroleum supply shortage.

This is very similar to EPAA Section 2(a).

— SPAA Section 272 (Purposes). This section states that its purposes are to give the President "limited" and "temporary" discretionary authority to allocate oil during a petroleum shortage and to minimize the adverse domestic effects of such a shortage. This is very similar to EPAA Section 2(b).

— SPAA Section 274 (Promulgation of Standby Regulations. The SPAA requires the President to develop standby regulations, to be promulgated within 180 days of enactment of the statute. This section permits the President to include any type of price control authority (including "margin" control authority) in the standby regulation; but only if he makes a finding that such pricing authority is "necessary to ensure effective implementation" of the allocation regulation. The Conference Report expressly states that "this phrase should not be read narrowly," and notes that the phrase could encompass "achieving the purposes of the Act, the purposes of the regulation itself, or the objectives of any of the provisions" of this bill. The President clearly has broad discretion to impose price controls. In addition, the Conference Report makes clear that the SPAA is intended to give the President "maximum flexibility" with regard to oil allocation. The Report expressly states that the SPAA confers on the President authority to "choose to limit allocations to a single category of petroleum product, to certain classes of end-users, or to allocation of crude oil among refiners." Section 274 of the SPAA is very similar to Section 4 of the EPAA.

-- SPAA Section 276 (Priorities). This section incorporates essentially verbatim the priorities of EPAA Section 4(b)(1). The section requires that the standby regulation provide "to the maximum extent practicable" for nine stated objectives, which are inherently contradictory.

-- SPAA Section 277. This section requires the President to include an "optional" crude oil-sharing program in the standby regulation. The purpose of this program--otherwise known as a crude oil "buy/sell" program--is more equitably to distribute crude oil among domestic refiners at equitable prices by enabling refineries whose supplies of crude oil have been disproportionately reduced to purchase oil at an established price from other refineries more favorably situated. A crude oil buy/sell program was implemented while the EPAA was in effect, pursuant to EPAA Section 4.

-- SPAA Section 281. This section provides, as a defense to breach of contract actions, that failure to share or exchange oil was caused solely by compliance with the Federal allocation program. This is similar to EPAA Section 6(c).

-- SPAA Section 284. This section requires the President to collect information on the wholesale and retail pricing, supply and distribution of oil on a state-by-state basis, and it specifically refers to the fact that this data was collected for purposes of implementing the EPAA.

IV. THERE ARE A NUMBER OF CONTINGENCY PLANNING PROGRAMS AND POLICIES WHICH ARE IN PLACE OR UNDER DEVELOPMENT AT DOE WHICH WILL ADEQUATELY AND APPROPRIATELY RESPOND TO ENERGY EMERGENCY SITUATIONS

Beyond question, there is a role for the Federal Government in the area of energy emergency preparedness. But, it is important carefully to define the proper boundaries of Federal activity so that any actions taken at the Federal level are not intrusive and counterproductive, as past programs under EPAA clearly were.

The goal of the Energy Emergency Preparedness Program at DOE is to reduce the Nation's vulnerability to energy supply disruptions, and to mitigate any impacts on the nation should a shortage situation occur. The strategy to achieve these goals is to rely primarily on the market-place to respond to disruptions in energy supplies. Accordingly DOE is examining ways to reduce barriers to short-term adjustments in the market-place. We have abandoned the policy of extensive Federal intervention which has proven to be ineffective in previous supply disruptions, such as oil allocation, price controls, and mandatory demand restraint measures, because, as noted earlier, they created or exacerbated the adverse economic and social impacts.

True preparedness to respond to energy emergencies does not rest in having written "plans" on the shelf. Such documents are rarely if ever useful in a real emergency, because the situations they are designed to cover cannot anticipate all of the possible eventualities. True energy emergency preparedness lies in developing processes for anticipating and responding to a multitude of potential crisis situations. Preparedness is a constantly evolving, constantly changing set of strategies, which are continually adapted to new foreign and domestic circumstances. In short, preparedness is being able to solve real world problems, not just being able to write about how to solve hypothetical ones. That is the difference between being prepared, and just developing plans. And this explains what DOE is now doing.

The Federal Government has a wide range of authority at present to deal with energy emergencies. Sections 202 and 251 of the Energy Policy and Conservation Act of 1975 (P.L. 94-163) authorize the United States to meet its obligations under the International Energy Program, including to restrict the public and private use of energy. The Emergency Energy Conservation Act of 1979 (P.L. 96-102) authorizes restrictions on the end-use of energy. The Defense Production Act of 1950 (P.L. 81-774, 50 U.S.C. App. 2061, et seq.) provides authority to allocate oil supplies for national defense purposes should it become necessary during a major disruption. Executive Order 11490, as amended, assigns emergency preparedness functions to Federal agencies dealing with petroleum, natural gas, solid fuels, and electric power. Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620) and the waiver authority under section 110(f) of the Clean Air Act Amendments of 1977 (P.L. 95-95, 42 U.S.C. 7410) encourage fuel switching and increased efficiency in fuel use.

Section 202 of the Federal Power Act (16 U.S.C. 792 et seq.), provides an additional legislative mandate to deal with electricity-related emergencies, such as issuing orders for emergency interconnections and reviewing electricity emergency plans. Section 232(b) of the Trade Expansion Act of 1962 (P.L. 87-794) provides authority to impose fees and quotas on oil imports based upon findings that oil imports threaten national security. Sections 301 to 304 of the Natural Gas Policy Act of 1978 (P.L. 95-621) provide emergency authority related to natural gas supplies during a severe shortage. Section 607 of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) provides authority to prohibit the burning of natural gas by any electric powerplant or major fuel-burning installation. Authority also exists under the International Emergency Economic Power Act of 1978 (P.L. 95-223) to declare a national emergency to deal with any unusual and extraordinary threat to the national security, foreign policy, or economy of the United States.

Section 161 of the Energy Policy and Conservation Act of 1975 (P.L. 94-163) provides for drawdown and distribution of the SPR oil during a severe supply interruption, and a plan for such distribution was allowed by Congress to become effective in 1979. And, during a severe interruption, if there is a need to have NPR surge production the President can ask the Congress for such authority by amending the NPR Act of 1976 (Public Law 94 - 258). DOE can also request State increases in production limits for oil and gas fields.

The following are some of the energy emergency preparedness programs now underway at DOE:

- Adequate levels of oil stocks:
Since the basic problem of a major energy supply disruption is the economy's difficulty in adjusting rapidly, one useful solution is to develop adequate crude oil stocks that can be drawn down in an emergency. Both private and Government-owned stocks are effective in dealing with oil supply disruptions, associated economic losses and national security threats. The Strategic Petroleum Reserve is an important part of this program. This Reserve is about one-third filled, with over 244 million barrels of crude oil--more than double the amount of the Reserve over a year ago. The SPR, when filled to 750 million barrels by 1990, may help deter politically inspired disruptions of U.S. imports as well as be used during a major oil emergency.

In addition to our commitment to the SPR, we want to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives for private stockbuilding. For example, we are working with the electric utility industry to see if higher levels of oil supplies should be permitted by state utility commissions. As noted earlier, the very passage of the SPAA would constitute a major disincentive for private stockpiling. In addition, we are studying the relationship of public stocks to private stocks, in order more fully to understand how and when to encourage private sector stock building activity.

- Developing Essential Information.

To meet statutory requirements or to fulfill our public responsibilities, in emergencies it is essential for the Department to analyze certain information and disseminate it to the public. For this reason we are developing a public information plan which will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs, and which will provide effective communications during a crisis. A task force has been set up at DOE to address this issue, and a review is underway to determine what emergency public information needs would be, based upon past experience, and projections for future problems.

We now have, and are improving a daily Energy Situation Report--an "early warning" system to provide accurate and timely assessments of domestic and international energy markets and conditions. In addition, we are developing a rapid information retrieval and analytical capability utilizing EIA data and expertise. We are undertaking such work with the help of the Energy Information Administration and other relevant DOE offices. Armed with such timely intelligence, the Federal Government, for the first time, will be in a position to help avoid potential shortages, rather than just react to them. This is a major step forward in our preparedness activities, and allows us to anticipate potential problems rather than just reacting to them.

- SPR and NPR Planning.

DOE has in draft form an SPR Distribution Management Plan which identifies logistical, legal, and managerial requirements to distribute and use crude oil from the SPR. This draft is now being revised. We are also evaluating and developing alternate drawdown approaches for SPR use in potential crises. A drawdown plan is in place now, having been submitted to Congress in 1979. (10 C.F.R. Part 220.) This plan permits needed flexibility in distribution of SPR volumes. And we are studying ways the NPR can be used during various possible emergency situations. A procedure for surge NPR production has already been devised.

- International Programs.

DOE is developing contingency plans for a National Emergency Sharing Organization and a mechanism to backstop voluntary offers by United States oil companies should the IEA emergency system be triggered. A standby regulatory procedure was issued by DOE in 1979, and we are evaluating whether it still meets today's needs. (10 C.F.R. Parts 209, 218.) We are also developing plans for United States participation in the IEA's Allocation System Test-4 in the spring of 1983. This test and the preparations for it will permit further planning for DOE's international obligations.

- Supporting Defense Preparedness.

Several plans to support defense preparedness are under development, including National Oil Board plans to support the U.S. commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization. We are also developing plans to implement the Defense Production Act requirements to ensure energy supplies for national defense needs. We have established interim DPA procedures with the Department of Defense, based upon a draft Memorandum of Understanding, and are now working with DOT, DOC, and Treasury to finalize these procedures. Other programs are reviewing DOE's interagency coordination for various emergency purposes, including responding to requests for Jones Act waivers.

- Coordinating with Other Agencies, States and Localities, and the Private Sector.

Government cannot and should not attempt to accomplish the emergency preparedness task alone. To obtain needed industry expertise in planning for and during energy emergencies, we are revitalizating the long dormant Executive Manpower Reserves--the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve and the Emergency Solid Fuels Reserve. The first EEPA meeting in over 2 years was held on February 10, 1982, and we have draft handbooks now prepared. The Reserves will provide a role for both energy producers and consumers as well as for State and local governments, financial institutions, and other businesses, on a volunteer basis, without establishing a permanent government bureaucracy. We are also studying the possibility of establishing one or more energy emergency preparedness advisory committees, to help coordinate voluntary public preparations for and responses to energy emergencies. A draft charter and workplan have been prepared.

In addition to these programs, we have responsibility to coordinate our activities with State and local governments as well as with other Federal agencies. To facilitate communication, we maintain the DIALCOM electronic mail system with most States, the Regional Electric Reliability Councils, energy associations and their regional and state affiliates. DOE is also examining ways to improve communications with State and local governments. We have met with several state and local government associations and are setting up a schedule of regular meetings to coordinate State and Federal emergency energy programs.

- Vulnerability Studies.

Because energy is critical to national security and defense needs, our planning also assesses vulnerability to terrorism, sabotage, and accidents of the Strategic Petroleum Reserve, the Naval Petroleum Reserves, the electric utility network, natural gas and petroleum pipelines, and other parts of the energy system. We have a number of specific projects underway in this area, which should be completed in calendar year 1982.

- Planning for Responding to Domestic Energy Emergency Situations.

In addition to the measures and authorities discussed above, DOE (along with other agencies) is studying the economic effects of potential energy supply disruptions, and possible mitigation measures.

We are also identifying and developing plans for removing regulatory, environmental, technical and economic barriers to efficient emergency energy use. We are also examining State regulatory restrictions that could be temporarily lifted to increase oil surge production. Draft strategies were completed last summer, and are now being reviewed to determine how they fit into the DOE's current energy emergency preparedness programs.

We have established an Alert Coordination System for electricity and other fuels, which provides a mechanism for a watch officer to be assigned on a 24-hour basis, and rotated weekly. This person is immediately contacted in the event of an energy problem or emergency, and has an established procedure for contacting the appropriate person(s) in DOE, whatever the hour, to help resolve the problem. This system has already been utilized successfully, most recently to help obtain supplies of aviation gasoline for an aerial search late one evening. And we were able to obtain this result by working cooperatively with potential suppliers, without the need for mandatory regulatory programs.

How will America be prepared to respond appropriately to a possible energy emergency? The answer is "Very Well." DOE now has in place, and is constantly improving, emergency information systems which will provide advance knowledge of possible energy emergency situations, so potential responses can be prepared in advance to head off the problem before it occurs.

Can solutions to energy emergency problems be accomplished without resort to mandatory regulatory programs? The answer is "Yes." There is little that you can do with a mandatory program that you cannot do with a voluntary, cooperative program. But without voluntary cooperation, all of the mandatory programs in the world will be a failure. When it appears that a possible energy emergency is on the horizon, the Department of Energy fully intends to work with the private sector, serving as a catalyst to bring appropriate parties together, cooperatively to work out the problem and to find real-world, practical solutions. The proper role of the Federal Government will be to provide needed information, and to facilitate the operation of the marketplace, with needed regulatory and other waivers or authorities. The various executive reserve programs which are being revitalized, and the other interactive programs with state and local governments will provide a ready mechanism for achieving these results.

What if the emergency becomes so severe that the national security and welfare is endangered, can the Federal Government still respond effectively to deal with such a crisis? Again, the answer is "Yes." As was listed earlier, there are a host of authorities available to the Federal Government to deal with bona fide crises which seriously affect national security or which significantly endangers health or property. But these types of occurrences are, thankfully, the exception. And even in such circumstances, as in most if not all other situations, there may well be no need for Federal Government involvement in an interventionist and mandatory manner. Over 220 million Americans know how to make America work--the role of the Federal Government is to help them do it when such help is truly needed, and to get out of the way when it is not.

CONFLICTING PLANS

QUESTION 2:	DOE is encouraging development of State contingency plans. This invites creation of more than 50 plans and regulations which may conflict with each other and national plans and regulations. How will DOE avoid a web of potentially conflicting regulations?
ANSWER:	The President vetoed tne Standby Petroleum Allocation Act (SPAA) because he believes that the best approach to supply disruptions is to rely mainly on the marketplace to allocate supplies. We anticipate that the States will recognize that putting in place mechanisms that did not work at the Federal level, would not work at State and local levels either. Since we want to help States develop consistent approaches, another part of our strategy is to coordinate with States through providing reliable and timely public information. Because the Administration also believes in Federalism, we do not intend to intrude in State decisions concerning State and local problems. If, however, State actions impede interstate commerce, the Department will work with the Department of Justice to prevent or remove such restrictions.

PRICES

QUESTION 3: The most damaging effect of the 1979 oil shortfall came from the rapid price increase. Current DOE plans do not include measures to deal with this problem. What, if anything, does DOE intend to do to attempt to mitigate rapid price increases?

ANSWER: We do not agree with the premise of this question. To the extent that there were energy supply difficulties in the United States during the Iranian Revolution, such problems were the direct result of the Federal Government's price and allocation program, and the Department of Energy's attempt to become intrusively involved in the domestic energy marketplace. (See response to Question 1.)

In any shortage situation which may occur in the future, it is entirely possible that price increases will occur. However, that is to be expected from the normal workings of the marketplace, and it is essential in order to convey the proper signals to energy producers, distributors, and consumers.

The Department of Energy has a number of studies under way to examine the economic impacts of energy supply disruptions. Included among them are the following studies under contract to DOE concerning recycling:

- ICF Inc., November 1981, Responding to Hardships from Oil Supply Disruptions: Analysis and Administrative Issues.
- ICF Inc., April 1981, Mechanisms for Recycling Federal Tax Revenues to Individuals and Households In Event of a Sudden Increase In the Price of Oil.
- Three preliminary studies by the Cabot Consulting Group.

    Preliminary Assumptions: Hardship Income Redistribution Mechanisms (January 1981)

    Preliminary Report: Selected Economic Issues In Petroleum Supply Shortfalls and Tax Revenue Distribution (September 1981)

    Preliminary Report: Comparison of Administrative Implications of Alternate Rebate Mechanisms (November 1980)

The most notable of these studies, all of which have been provided to the Committee, is the April 1981 ICF Inc. report which identifies advantages and disadvantages of three revenue recycling options and assesses their feasibility for implementation. We also have furnished a copy of a draft report of April 1981 by an interagency working group chaired by DOE, Petroleum Emergency Preparedness Study (PEPS).

SURGE PRODUCTION

QUESTION 4: In the event of a disruption, are there any specific plans to encourage surge production of oil or other forms of energy within the United States? Would you comment on existing barriers to surge production such as State and Federal regulations?

ANSWER: Under Section 106 of the Energy Policy and Conservation Act, 42 U.S.C. section 106, authority to determine the temporary emergency (surge) production rate for a crude oil or natural gas field is vested in the Secretary of the Interior with respect to Federal lands or unitized fields, and in the States with respect to other lands within their jurisdiction. The President is empowered to require surge production, during a severe energy supply interruption, but only from fields as to which the surge production rate has been thus determined.

Section 106 does not apply to the Naval Petroleum Reserves (NPR). Pursuant to the Naval Petroleum Reserves Production Act of 1976, 10 U.S.C. section 7422, production of NPR:1 at Elk Hills, California, at a rate in excess of the maximum efficient rate (i.e., surge production) is permissible only when the Secretary of Energy, with the approval of the President, finds that such production is needed for the national defense and the production is authorized by a joint resolution of Congress.

While Department of Energy has not formulated specific surge production plans applicable to other Federal or State lands, it has drafted the preliminary temporary emergency (surge) production plan for the NPR, which is being finalized. The use of such a plan on the West Coast could be significant. In addition, the National Academy of Sciences presently is conducting a study for the Energy Information Administration on data needed to evaluate the potential for surge production.

DEMAND RESTRAINT

QUESTION 5: In addition to the anticipated impact of price increases, what voluntary or involuntary demand restraint means have been analyzed or discussed by the Administration? What measures would be put in place or urged upon the U.S. public by the Emergency Public Information Program? What energy savings can we expect from these efforts?

ANSWER: The primary demand restraint is the marketplace. A number of potential demand restraint measures are set forth in response to question 26 below. The Department of Energy, as well as a number of public and private sector organizations have developed a substantial body of literature on energy conservation, from which public information programs will be derived in an emergency situation, if appropriate. In the past the public has responded to requests for voluntary energy conservation, and we would anticipate the same kind of response in the future if it is necessary.

DATA

QUESTION 6: Effective international coordination of oil policy as well as efficient use of the SPR implies an understanding on a current basis of the world and domestic oil markets. Given the present direction of DOE manpower and funding, I am concerned that DOE's information capabilities may be severely limited. Would you describe in specific detail DOE's data gathering and data analysis capabilities, indicating the resources available for these purposes and the type and timeliness of data which will be produced?

ANSWER: This subject was discussed in depth by J. Erich Evered, Administrator, EIA, in his testimony before the Subcommittee on Fossil & Synthetic Fuels of the House Committee on Energy & Commerce, on March 10, 1982. A copy of his testimony is attached. Also attached are several other documents providing further detail on DOE's capabilities, including:

1. Response to Senate Interior Appropriations Subcommittee, submitted April 28, 1982.
2. Memorandum for J. W. Mares from R. L. Winkler, dated April 16, 1982.
3. A paper prepared by the DOE Office of International Affairs entitled, "Analytical and Data-Gathering Functions of the Office of International Affairs."

As a result of a number of improvements which have already been implemented, and the enhancements which are underway, the Department will continue to have available to it current and accurate data of the kind needed to be prepared for possible energy emergencies. A number of forms are being used for this purpose, including EP-51, EIA-60, EP-739, and EIA-142. In addition to a wide variety of intelligence sources constantly available, DOE has been instrumental in the development, and is working on the enhancements to the National Emergency Maritime Energy Supply Information System (NEMESIS).

Attachment to
Question #6

Statement of J. Erich Evered
Administrator, Energy Information Administration
Department of Energy
Before the
House Committee on Energy and Commerce
Subcommittee on Fossil and Synthetic Fuels
March 10, 1982

Mr. Chairman, members of the Committee, I am pleased to appear before you today to discuss the capabilities of the Energy Information Administration (EIA) to provide information to support energy emergency preparedness and international energy activities, and to discuss our Fiscal Year 1983 budget request.

The fundamental mission of the EIA is to provide accurate and timely energy information to decisionmakers within and outside Government so that they can make informed decisions about energy, including potential emergency situations. In a broad sense, almost all of the EIA information collection and analysis programs can be considered as contributing to the Nation's emergency preparedness posture. The EIA is planning to continue the basic energy information programs needed to monitor energy trends for emergency preparedness purposes. In so doing, EIA will retain the institutional capability, both the tools and appropriately skilled staff, to expand upon its basic collections to obtain the required information, should the need arise.

Within the Department of Energy (DOE), EIA's major customers for information relevant to an energy emergency are the DOE Office of Environmental Protection, Safety and Emergency Preparedness, the Office of International Affairs, and the Federal Energy

Regulatory Commission. Outside DOE, customers include other Federal agencies, the Congress, State governments, international organizations, and the private sector.

EIA's energy emergency information program consists of several discrete activities that provide information useful for monitoring energy trends in a potential emergency situation. First is the development of a capability to provide a blueprint for information responses to various types of supply interruptions. It will allow managers to draw upon the existing EIA data and analysis programs for information relevant to an emergency situation. Other features include the use of computer assisted telephone interviewing to obtain responses to surveys more rapidly, and an automated communications network called DIALCOM to facilitate the exchange of information between Federal and State energy offices. Upon completion of development, some of these features will be placed in a standby status in 1983.

Second is the Weekly Petroleum Reporting System, from which the Weekly Petroleum Status Report is produced. The Weekly informs a wide audience of the overall petroleum situation on a current basis. The Weekly presents current information on petroleum supply, stocks, and inventories and is sent to over four thousand recipients. The Weekly is highly regarded by its clientele and has resulted in a marked decrease in ad hoc requests for current supply information, has ensured consistency in the supply information which is provided to the public, and has acted as a deterrent to undue reaction to isolated supply problems.

Resources for these two activities in FY 1980 were $5.2 million and 23 people; $4.6 million and 20 people in FY 1981; $2.1 million and 12 people in FY 1982; and $1.3 million and 7 people planned for FY 1983. These resources reflect the higher costs associated with program development in past years; operation and maintenance costs are expected to remain fairly stable in the future, since further expansions are not planned.

Other activities relevant to emergency preparedness that are an integral part of EIA's ongoing efforts include the Short-term Energy Outlook (or Outlook), the Coal Strike Monitoring System, natural gas curtailments information, and information for the International Energy Agency.

In many cases, information support for an energy emergency entails increased timeliness and level of detail of ongoing activities, not the creation of new data series. For example, the Outlook was reoriented during the 1981 United Mine Workers of America strike to focus on coal supplies and impacts of the strike. The staff concentrated on these areas during the strike, producing a special section of the Outlook during that time, then returned to normal activities following the strike. A similar approach would be taken during a supply interruption involving another energy area.

Also, detailed coal supply information, needed primarily during a coal strike, would be gathered rapidly by reinstituting the

Coal Strike Monitoring System, which worked very successfully during the 1977-78 and 1981 coal strikes. The system monitors coal stocks, receipts, and consumption at electric utilities, coke plants, and other industrial locations. Finally, the Natural Gas Curtailments System, which gathers annual projections of natural gas supplies, curtailments, and alternate fuels use, would be augmented by reactivating with the Office of Emergency Preparedness the "Gaseous Fuels Emergency Telephone Survey" should a natural gas emergency occur.

Last summer the EIA implemented a fundamental restructuring, with resulting organizational units aligned by fuel types. Thus, we have separate, consolidated Divisions of Natural Gas, Petroleum Supply, Coal, Electric Power, and others. Within these Divisions are assigned the skilled, experienced personnel responsible for fuel-specific data collection and processing, as well as interpretation and analysis. This alignment, in my judgment, places EIA in a stronger posture for quick action in an emergency situation. It provides for focused responsibility in planning and implementing our response.

The basic legislative mandate and information gathering authorities for emergency preparedness and other EIA programs are contained in the Federal Energy Administration Act of 1974 as amended by the Energy Conservation and Production Act, the Energy Supply and Environmental Coordination Act of 1974, and the Department of Energy Organization Act. In addition, EIA provides energy information services to those DOE offices responsible for carrying out their mandated energy programs.

Turning to the international area, information is currently provided to the International Energy Agency (IEA) on a routine basis; therefore, emergency reporting could be instituted quickly. The principal DOE users of EIA's international energy information program, Emergency Preparedness and International Affairs, receive copies of International Energy Agency Questionnaires B and C, which contain current and projected U.S. petroleum supply information, and other data and analyses prepared and transmitted by EIA directly to the International Energy Agency. Emergency Preparedness sponsors the collection of cost data from equity, concessionary, and F.O.B. purchases by U.S. companies on the Foreign Crude Oil Cost Report; and crude oil stocks collected on an ownership basis by the Crude Oil Ownership Report. Other information for the International Energy Agency is provided directly by other DOE components.

EIA analytical staff exchange analyses with both Emergency Preparedness and International Affairs concerning: current and future world oil markets, the International Energy Agency's International Energy Program and its implications for U. S. supply during a supply interruption, and information used to determine appropriate amounts and types of oil to be stored in the Strategic Petroleum Reserve. Data and analyses of current world oil production, consumption, trade, and prices prepared by EIA and International Affairs are used to monitor the world oil situation. The EIA also prepares projections of prices and economic impacts of potential supply disruptions. Finally, as I previously mentioned, the EIA routinely prepares quarterly short-term projections of U.S. energy supply, demand, and prices.

Beyond the basic information programs, other support for Emergency Preparedness and International Affairs, as well as for other DOE components, is generally accomplished on a case-by-case basis in response to a specific request. Data services are provided through Energy Data Services Requests, and special analyses are prepared as specified by the requesting program office. EIA works closely with these organizations to assure that essential programmatic energy information needs are met. Many of the EIA information programs have been designed with the capability to satisfy multiple purposes, including both general statistical reporting and specific program needs. Requests for information which can be met with existing capabilities are routinely satisfied. Requests which require special services, such as a specialized data collection or modifications to the data processing systems, are usually met on a reimbursable basis.

EIA performs its functions, including support for Emergency Preparedness and International Affairs and the international energy information program, according to its Annual Operating Plan, which lists all approved projects for the year with resource and priority information. Should an emergency arise, EIA would examine the priorities in the Operating Plan, assess the types of skills needed for the emergency vis-a-vis individual Operating Plan projects, and shift resources with appropriate skills from lower priority projects to meet the emergency needs. Should the emergency persist, and there be a Federal role defined, it is possible that EIA would find it necessary to request additional resources, in both staff and funds.

The EIA does not plan to reduce the resource level for the international energy information program, regardless of decisions regarding the organizational placement of the functions now performed by the Office of International Affairs. The proposed elimination of the Office of International Affairs has two direct impacts on the EIA. First, our two offices do collaborate on several international information projects. We are currently engaged in discussions with International Affairs on how best to ensure that U.S. international energy information obligations will continue to be met. Second, the EIA transmits some of the information it provides the International Energy Agency through International Affairs staff. An alternate, secure means of transmitting the information would have to be arranged. Additionally, International Affairs provides official technical representatives on four International Energy Agency standing committees, and International Affairs representatives chair an ad hoc data committee. The selection of replacement representatives could alter the procedures now in place. With respect to EIA activities, I do not regard these impacts as unduly large or unworkable.

The EIA role in the International Energy Agency's upcoming Allocation System Test (AST-4) exercise is not directly impacted by the decision on the placement of the functions of the Office of International Affairs, since the EIA interacts directly for data regarding U.S. oil companies with the International Energy Agency on this project. The only problem EIA foresees in this project would be the introduction of new U.S. representatives, with a change in procedures for collecting and transmitting U.S. input into AST-4, either immediately prior to or during the exercise. We are working with all existing organizations that would be involved in AST-4 to keep communication lines open.

Finally, I will conclude with a summary of other program changes reflected in the Fiscal Year 1983 budget request. This request is for $54.5 million and includes 415 full-time equivalent staff years. As you know, the President's budget assumes continuation of the EIA in FY 1983 as an independent Bureau of Energy Information within the Department of Commerce. Our agenda would remain basically unchanged if the reorganization takes place as contemplated. The program changes in the budget have been largely in response to the Administration's overall energy policy of placing greater reliance on the free market in seeking solutions to the Nation's energy future, and the necessity to reduce spending by the Federal government.

For example, the demands of Federal program managers for detailed data needed to implement regulatory programs have been reduced. Other proposed major program changes include the elimination of the Financial Reporting System and mid- and long-term modeling and forecasting. The Financial Reporting System is costly and burdensome and much of the information is available from other Government and private sources. Similarly, several private sector sources prepare forecasts of future energy trends. With the inherent uncertainty that attaches to any longer-term projections, the estimates from these sources should provide a sufficiently broad range of possible energy futures. The scope of some data collections, such as consumption and alternate fuels, will be reduced without a significant loss of timely and relevant information. Finally, survey design and forms clearance will be concommitantly reduced.

We will continue the production of our basic energy data series and support of the basic information requirements of the Federal Energy Regulatory Commission. We will also be focusing our analytical resources on interpretive analysis to turn raw data into relevant information, on examining short-term energy trends, and on critical energy issues, such as natural gas decontrol and electric utility financial constraints.

In summary, much of the work EIA does--data collection on oil, gas, coal, nuclear, and electric energy supply and distribution, consumption, and short-term analysis--prepare us to disseminate appropriate information in an emergency. Through careful planning, EIA is prepared to shift resources to any fuel area in which a supply or other disruption occurs, and to provide information needed by energy decisionmakers.

This concludes my presentation on current and planned EIA support for the Department's emergency preparedness and international energy activities. I will be happy to respond to any questions you may have.

Attachment to Question #6

Developing Essential Information

(Response to Senate Interior Appropriations Subcommittee,
submitted April 28, 1982)

The DOE's Daily Energy Situation Report

Background

The Energy Situation Reporting System includes the Energy Situation Report, and a supporting data base called "Tables." The Energy Situation Report is a daily report used mainly as the core of an on-line computerized reporting system. It highlights recent events affecting U.S. energy supply availability, data on energy supply and demand, and items which may develop into future problems.

It includes: (1) Highlights and Early Warning Items, and (2) Background Information. The latter section has separate subsections with current general information on crude oil petroleum products, natural gas, coal and other solid fuels, electric power, weather trends and forecasts, and special topics as noted in individual items in the Highlights and Early Warning section.

Additional background data are available on the "Table" system, derived from government and non-government sources.

At this stage the Energy Situation Report serves mainly to collate and highlight essential energy data on a timely basis. In future stages of its development, ESRS will be connected with more detailed historical data and with the extensive on-line consolidated publication files under development in EIA. We will enhance the collating function by more analytical work as we improve our modelling and analytical capabilities to draw information from EP, IA and EIA data bases.

The daily production of the Energy Situation Report and the availability of other background material through the "Table" system, are the current products of the activity.

Purpose and Origin

The Energy Situation Reporting System (ESRS) provides the Deputy Assistant Secretary for Energy Emergencies (DAS/EE) an accurate and current daily overview of the national and international energy situation. He may use this report to identify trends and spot a potential energy problem. The ESRS report is an early alert information system and is intended to become a trip-wire, indicating the need for additional investigation and possible initiation of contingency programs.

The report was put on the computer and made available to the DAS/EE about the first of December 1981. However, since the ESRS is under development, we are improving the format of the daily report and enhancing the system by giving it improved analytical capabilities, and access to additional detailed background material.

In addition the ESRS report will provide timely information on the worldwide energy situation to other DOE senior officials for use in developing and administering policies and programs. In short, the ESRS report will keep the user abreast of significant energy developments, particularly those posing major consequences for U.S. energy supplies, demand, and prices.

Distribution

We circulate the report in-house, except for a weekly copy for the White House.

At this time we do not expect routine distribution of hard copies outside the Department. We anticipate that State officials may receive access to the system, given the need for accurate and timely information when an emergency threatens or materializes. However, such access would be by cathode ray tube display. Thus, no printed copies would be required beyond those for in-house use.

Sources

In addition to EIA reports, we use a number of publications to update the source data files, including:

Petroleum Intelligence Weekly
Oil and Energy Trends
American Petroleum Institute's Weekly Statistical Bulletin
Platt's Oilgram
Association of American Railroad's Weekly Carloading Report
Bureau of the Census' Reports
Coalship Trade and Transport Corporation
Bureau of Labor Statistics' Reports
McGraw-Hill Economics Department
Edison Electric Institute
National Weather Service
Oil and Gas Journal

We also rely upon informal information sources, telephone calls, etc.

The DOE's Rapid Information Retrieval and Analytical Capability

The purpose of this capability is to rapidly retrieve and analyze information to support situation assessments which may be required in any energy disruption. This work is being done in close cooperation with EIA.

To provide this capability, we are: (1) developing a data base which satisfies all of our informational requirements; (2) improving the overall system so that it is easier to access and maintain; (3) designing various output formats which will automatically bring together critical data elements from different tables or data sets, such as company-specific information on crude oil refining opeations; and (4) integrating the data base so that it can be manipulated for ad hoc analytical tasks.

To this end, we are reviewing information sources within the Department as well as other non-Departmental data. We are also investigating the accessibility of these sources by computer, in order to access the data as soon as they become available. In addition, a task group will develop analytical enhancements to the system. This is expected to be a long-term effort to complete; however, enhancements are being incorporated into the system as they are developed and perfected.

Attachment to Question #6

Department of Energy
Washington, D.C. 20585

APR 16 1982

MEMORANDUM FOR Jan W. Mares
Acting Deputy Under Secretary

THRU: William A. Vaughan
Assistant Secretary
Environmental Protection, Safety, and
Emergency Preparedness

WAV

FROM: Ronald L. Winkler RLWinkler
Deputy Assistant Secretary
Energy Emergencies

This responds to your note, dated March 30, 1982, in which you asked for answers to questions raised by Ben Rusche, Ed Kay, and Ken Davis regarding the Energy Situation Reporting System (ESRS). Before responding to the specific questions, I thought it would be useful to discuss generally the origin and functions of the ESRS. When I came into DOE last fall, I very quickly perceived that I did not have the information available to me, on a timely basis, which was necessary for me to alert the Assistant Secretary for EP, the Under Secretary, Deputy Secretary, and The Secretary, as might be appropriate, of potential energy emergencies and appropriate response strategies. In addition, I was unable to respond to periodic inquiries for energy situation analyses, and lacked a systematic approach for anticipating possible problem situations, currently, and in the future.

My requirements for an information system suitable for energy emergency preparedness purposes were as follows:

1. The data had to be accurate and current
2. The data had to be derived from a wide range of printed and other sources
3. The data had to be updated hourly, and daily, and had to be accessible 24 hours per day, both in the Forrestal building and at remote locations
4. The data had to be supplemented with analysis, and with ranges of possible situations which might develop. It had to be a qualitative as well as a quantitative system.

5. The system had to permit simple modeling based upon a few variations
6. The system had to be simple to operate and update, inexpensive, and capable of being sustained fully by DOE personnel with little or no contractor support.
7. The system had to interrelate with the intelligence system in the Department in an appropriate way.

Naturally, I did not want to duplicate any existing DOE data systems. Therefore, I met with EIA and IA personnel, and ascertained that the kind of system which I felt was needed was not being done already. EIA, of course, has a number of highly sophisticated data systems, which the ESRS relies upon heavily. However, there are a number of key differences between the ESRS and what EIA can provide:

1. The ESRS can use a wide range of data sources, and can add telephonic information, etc., to the EIA data
2. The ESRS contains weather data, information on rivers and transportation modes, and a wide range of other topics which are needed to get a complete picture of the overall energy situation
3. The ESRS is updated continually during the business week, with the latest data and other information
4. The ESRS contains a variety of judgments and subjective analyses performed by the EP staff which assist us in determining whether additional analysis by EP, EIA, and IA is needed
5. The ESRS is designed to be compatible with the DOE's intelligence data for ease of analysis and comparison.

In essence, the ESRS is not intended to be a statistically accurate report, although it does try to be as accurate as possible. Rather, the ESRS is intended to provide the decisionmaker with a quick and current overview of a wide range of information needed to assess the energy situation in the U.S. and in the world. With the ESRS, you will not be able to predict precisely what might occur, but you will know the range of possibilities. And, what is most important, you will know when you will want to have EIA and IA and others in the Department look further into areas which might be potential problem situations.

The specific questions and answers are now set forth below:

1. Question: What is the origin of the ESRS and when was it first published?

Answer:

The primary purpose of the Energy Situation Reporting System (ESRS) is to generate a report which provides the Deputy Assistant Secretary for Energy Emergencies an accurate and current overview of the national and international energy situation. The system is to provide the Deputy Assistant Secretary with information daily which he may use to identify trends and spot a potential energy problem before it develops into a major crisis. The ESRS report may be perceived as an early alert information system or trip-wire indicating the need for additional investigation and possibly the initiation of contingency programs.

The report was first published about the first of December 1981. However, the ESRS is still in the developmental state. Improvements are being made to the format of the daily report, and an exercise is underway to enhance the system by giving it improved analytical capabilities.

2. Question: What is the source of the information in the ESRS and how is it verified.

Answer:

In addition to EIA reports, we use a number of energy publications to update our data files, among which are the following:

Petroleum Intelligence Weekly

Oil and Energy Trends

American Petroleum Institute's Weekly Statistical Bulletin

Platt's Oilgram

Association of American Railroad's Weekly Carloading Report

Bureau of the Census' Reports

Coalship Trade and Transport Corporation

Bureau of Labor Statistics' Reports

McGraw-Hill Economics Department

Edison Electric Institute

National Weather Service

Oil and Gas Journal

Additionally, we talk with individuals in state energy offices, and persons in energy producing companies for current status reports on specific fuels or power situations. The verification of the data, while not done scientifically, is normally accomplished by comparing different sources of data. Our experience with different sources of information helps us determine which ones are most reliable.

3. Question: How is the information being used and what is its distribution?

Answer:

The ESRS is an on-line interactive system that can be accessed by anyone who has a valid DOE computer identification number.

The ESRS produces a daily output report which is divided into two parts. Part One, Highlights and Early Warning Items, identifies recent events pertaining to energy supplies, demand and prices. Part One is intended to spotlight events as they are unfolding which may have a significant impact on the energy interests of the United States and other member countries of the International Energy Agency.

Part Two, Background Information, provides narratives and a series of data tables on crude oil and petroleum products, natural gas, coal and other solid fuels, electric power, weather trends and forecasts, and on special topics specified in the Highlights and Early Warning section.

The ESRS also contains a data base which supports the daily report but is not printed, except for special purposes. Although this data base is still being developed, it should ultimately provide the capability for in-depth analysis and simple modelling programs on the computer. It could also support decisions regarding the need for emergency responses, as well as supporting any post-emergency analysis.

Currently, hard copies of the daily report are being distributed only to individuals within the Office of Environmental Protection, Safety, and Emergency Preparedness (EP). Other DOE employees outside of EP have been given access to the system, and they may print a copy for themselves at any time. Also, a copy is sent weekly to Danny Boggs at the White House. Additionally, copies of the report have been given to members of trade associations, such as the

American Petroleum Institute, and to members of the Emergency Electric Power Administration at a recent organizational meeting. In these latter instances our purpose was to exemplify the progress being made by the Department in maintaining an emergency preparedness informational system.

4. Question: If routine distribution external to the Department is envisioned, can the appropriate OMB and Departmental guidelines for printing be met?

Answer:

Routine distribution of hard copies to individuals outside the Department is not envisioned at this time. We do anticipate that state officials may be provided access to the system, given the need for accurate and timely information when an emergency threatens or materializes. However, their access would be by computer, so no printed copies would be required beyond those for in-house use.

5. Question: Is the report prepared by internal DOE resources or are support services contractors employed? What is the annual cost (dollars and manpower)?

Answer:

The report is prepared by a staff of 11 DOE employees. Additionally, we have engaged a contractor, the Cabot Consulting Group, to review and suggest improvements in the format of the report, to develop methods to improve the accessibility to different sections of the report, to prepare a user's manual, and to prepare a list of alternative sources for the data base.

The cost of the contract is $25,000, and we estimate that the cost of computer time to produce the daily report and maintain the data base is about $3,000 per month.

6. Question: Would it be appropriate for Secretarial officers to receive the report?

Answer:

Yes. The secondary purpose of the ESRS report is to provide timely information on the worldwide energy situation to other senior officials inside the DOE for their use in developing and administering policies and programs. The ESRS is designed to provide an overview of the energy situation to Federal officials who are not able to allocate a large portion of their time to following developments in the energy field.

In short, the ESRS report is designed to keep the user abreast of significant developments in the energy field, particularly those posing major consequences for U.S. energy supplies, demand, and prices.

Attachment to Question #6

Analytical and Data-Gathering Functions of the Office of International Affairs

The Office of International Affairs collects a variety of information about world oil markets on a daily, monthly, quarterly and yearly basis. The major sources for this data are the International Energy Agency, which collects energy information from companies and governments, the U.S. intelligence community, the Energy Information Administration data collection systems and industry contacts.

Utilizing this data the Office of International Affairs produces various regular reports, energy market forecasts, and special studies, including:

- Applied analyses of energy supply and demand with emphasis on the major producing countries and regions;
- Analysis of data relevant to the world oil market and specific foreign nations, including assessments at fixed points in time as well as intermediate and long-term trends and forecasts;
- Daily monitoring and analysis of developments in world crude and refined product markets. On-going tracking of both spot and contract sales;
- Analysis of current changes and longer-term trends in and forecasts of oil production as well as such relevant factors as crude quality differentials, cost-price relationships, and various economic variables;
- On-going analysis of current and projected future productive capacity, exploration and development activities in oil producing countries; and
- Publishing selected international energy information in the monthly International Energy Indicators.

In addition, the Office of International Affairs works closely and on an on-going basis with other offices within DOE and agencies within the U.S. Government in:

- Providing technical assistance in the development of international data and international energy trade data;
- Providing contacts with foreign governments to facilitate coordination of our international information;
- Providing EIA with international energy supply projections for the preparation of EIA's annual report to Congress;

- Supplying international supply/demand projections for compilation of the short-term oil outlook;
- Contributing international oil statistics including prices and price trends for inclusion in the Weekly Petroleum Status Report; and
- On an on-going basis, providing consultation on general analytical and methodological questions.

QUESTION 7: In the event of a petroleum shortage, however caused, would the domestic market be the sole allocator of supplies? Would that depend upon the extent of the shortage or the nature of its cause?

ANSWER: The response by the Department of Energy to any particular petroleum shortage necessarily will depend on a wide range of factors, including the cause of the shortage, its expected duration, the extent of the shortage, the current economic and political situation domestically and internationally, etc. The principal response will be to rely on the marketplace. Our view was described in the Statement of Assistant Secretary Vaughan before the Committee on Appropriations, Subcommitte on Interior and Related Agencies, dated April 26, 1982 (a copy of which is attached).

Attachment to Question #7

APR 2 6 1982

Statement of William A. Vaughan
Assistant Secretary, Environmental Protection,
Safety, and Emergency Preparedness
Department of Energy
Before the
Committee on Appropriations
Subcommittee on Interior and Related Agencies

INTRODUCTION

Mr. Chairman and members of the Subcommittee, it is my pleasure to appear before you today in support of the President's budget proposals for FY 1983 for the Office of Energy Emergencies, the Strategic Petroleum Reserve, and the Naval Petroleum and Oil Shale Reserves. The Department's energy emergency preparedness responsibilities are centered in these three program offices under my direction. I am accompanied this morning by Mr. Ronald L. Winkler, the Deputy Assistant Secretary for Energy Emergencies; Mr. Richard D. Furiga, the Deputy Assistant Secretary for the Strategic Petroleum Reserves; and Captain Gordon R. Gilmore, USN, Director of the Naval Petroleum and Oil Shale Reserves.

Before going into the specific budget requests for each of these offices, I would like to take a moment to discuss our approach to energy emergency preparedness.

The overriding goals of the Department's energy emergency preparedness program are to reduce the Nation's vulnerability to energy supply disruptions and to mitigate their impacts on the Nation. This Administration has redefined significantly our method of achieving this. We have abandoned the policy of extensive Federal intervention such as oil allocation, price controls, and mandatory demand restraint measures, because we found they created or exacerbated the adverse economic and social impacts.

Our strategy to achieve these goals is to rely primarily on the marketplace to respond to disruptions in energy supplies and to fill the Strategic Petroleum Reserve. Accordingly, we seek to remove barriers to short-term adjustments in the marketplace. Since the basic problem of a major energy supply disruption is the economy's difficulty in adjusting rapidly, one useful solution is to develop adequate crude oil stocks that can be drawn down in an emergency. Both private and Government-owned stocks are effective in dealing with oil supply disruptions, associated economic losses and national security threats. For the United States, protection against severe disruptions in petroleum supplies includes the Strategic Petroleum Reserve. In addition to our commitment to the SPR, we want to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives for private stockbuilding. The Naval Petroleum Reserves are also producing at the maximum efficient rate and will sell the Government's share of production to the Department of Defense to aid them in establishing secure sources of supply.

Stimulating public understanding of the need to plan for energy emergencies and to facilitate effective communications during crises is another program priority. An important part of this effort is to encourage suppliers, consumers, and State and local governments to develop their own contingency approaches. Also, we are working closely with the International Energy Agency (IEA) to develop coordinated responses among the 21 members during a major supply disruption.

The balance of my testimony provides pertinent details of the Energy Emergencies Program, the Strategic Petroleum Reserve, and the Naval Petroleum and Oil Shale Reserves.

ENERGY EMERGENCIES PROGRAM

Our energy emergency strategy relies primarily on market mechanisms, coupled with self-help and liaison programs. In this way, we will facilitate free market responses to energy emergencies, and coordinate energy emergency planning. Because energy is critical to U.S. national security and defense needs, our planning also assesses vulnerability to terrorism and sabotage of the Strategic Petroleum Reserve, the Naval Petroleum and Oil Shale Reserves, the electric utility network, natural gas and petroleum pipelines, and other parts of the energy system. We have other on-going programs to improve energy emergency preparedness, including participation in the Emergency Mobilization Preparedness Board.

ORGANIZATION

The Office of the Deputy Assistant Secretary for Energy Emergencies develops emergency preparedness strategies and programs to reduce U.S. vulnerability to energy supply disruptions. Its two components are the Offices of Energy Contingency Planning and Energy Emergency Operations.

The Office of Energy Contingency Planning develops new initiatives, analyzes energy emergency issues, develops and tests emergency responses, and evaluates the probable consequences of such responses for other nations, Federal and State governments, industry, and individuals. The names of the Office's two Divisions describe their functions: Plans Development and Testing, and Scenario Development and Response Strategy Analysis.

The Office of Energy Emergency Operations monitors, reviews and analyzes data about energy resources as they relate to possible emergency situations, determines the imminence and potential magnitude of a shortage, and assesses its resulting impacts. The names of its two Divisions describe their main functions: National Security and Emergency Operations, and Energy Supply Evaluation and Risk Assessment.

FY 1982 ACTIVITIES AND ACCOMPLISHMENTS

Some of the highlights of FY 1982 activities and accomplishments are as follows:

Enhancing Supplies. We are responsible for various planning activities with respect to the Strategic Petroleum Reserve and the Naval Petroleum Reserves. Accordingly, we are developing an SPR Distribution Management Manual which identifies logistical, legal, and managerial requirements to distribute and use crude oil from the SPR. We are also evaluating and developing alternate drawdown approaches for SPR use in potential crises. To encourage private stocks we are evaluating options to eliminate disincentives, and studying possible incentives which might be appropriate.

Mitigating Impacts. Since we support U.S. involvement in the International Energy Agency, we are developing contingency plans for a National Emergency Sharing Organization and a mechanism to backstop voluntary offers by U.S. oil companies should the IEA emergency system be triggered. We are also developing plans for U.S. participation in the IEA's Allocation System Test-4 in the spring of 1983. Another project examines financial and economic impacts of energy supply disruptions, and the feasibility of recycling selected revenues.

Developing Essential Information. To meet statutory requirements or to fulfill our public responsibilities in emergencies, it is essential for the Department to analyze and disseminate certain information. For this reason we are developing a public information plan which will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs, and which will provide effective communications during a crisis. We are also developing and refining a daily energy situation report--an "early warning" system to provide accurate and timely assessments of domestic and international energy markets and conditions. In addition, we are developing a rapid information retrieval and analytical capability utilizing EIA data and expertise.

Coordinating With Other Agencies, States and Localities, and the Private Sector. Government cannot and should not attempt to accomplish the emergency preparedness task alone. To obtain needed industry expertise in planning for and responding to energy emergencies, we are considering the revitalization of the long dormant Executive Manpower Reserves--the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve and the Emergency Solid Fuels Reserve. The Reserves will provide a role for both energy producers and consumers as well as for State and local governments, financial institutions, and other businesses, on a volunteer basis, without establishing a permanent bureaucracy.

In addition to the Manpower Reserves programs, we have a responsibility to coordinate our activities with other State and local governments as well as with other Federal agencies. To facilitate communication, we maintain the DIALCOM electronic mail system with most States, the Regional Electric Reliability councils, energy associations and their regional and state affiliates.

Supporting Defense Preparedness. Several plans to support defense preparedness are under development, including National Oil Board plans to support the U.S. commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization. We are also developing plans to implement the Defense Production Act Requirements to ensure energy supplies for defense needs.

Conducting Tests. We are planning for and testing various programs, including: IEA preparedness for energy emergencies, civil emergencies, military traffic, and Continuity of Government. We have just finished testing our Continuity of Government Plan and are preparing to test the Strategic Petroleum Reserve draw down management process.

FY 1983 EMERGENCY PREPAREDNESS BUDGET

The FY 1983 budget request for the Office of Emergency Preparedness is $5.4 million, a decrease of $4.8 million from the FY 1982 appropriation.

During FY 1983, our emphasis will be to enhance FY 1982 planning and operating readiness initiatives so we can assess national security needs and identify necessary responses during an energy emergency.

To carry out these objectives, the program will maintain and improve upon in-house expertise for planning and operations, thereby reducing the need for outside contract support.

Operating expenses for Emergency Planning are $840,000, down $2,010,000 from the $2,850,000 appropriated for FY 1982. This appropriation will permit us to address practical energy emergency problems, develop new responses, and analyze policy issues surrounding energy supply emergencies, consistent with the Administration's market-based energy approach. Another emphasis is our support for voluntary U.S. company participation in the IEA oil sharing program during emergencies. We will also be involved with NATO-related planning for oil supply and distribution and will develop scenarios to profile potential emergencies and develop and test appropriate responses.

Our FY 1983 request for operating expenses for Emergency Operations is $1,300,000, $2,050,000 less than the $3,350,000 appropriated the year before. Such an appropriation will allow us to implement defense programs and prepare to coordinate communications and operations during energy emergencies. Thus we will focus on programs to provide accurate and timely information to State and local governments and the general public. Where possible, we shall use existing capabilities such as interagency support agreements and Federal/State coordination mechanisms.

The balance of this request includes $3,300,000 for program direction costs, representing salaries and other expenses for 72 staff years, a decrease of $1,020,000 and 22 staff years from the FY 1982 appropriation.

The next segment of my testimony concerns the Strategic Petroleum Reserve.

FY 1983 SPR BUDGET

SPR OIL ACQUISITION ACTIVITIES

We have made a great deal of progress over the past year in filling the Reserve. As of March 22, 1982 the Strategic Petroleum Reserve contained 244 million barrels of crude oil and has a maximum draw down capability of 1.7 million barrels per day.

The total fill for calendar year 1981 was 122.5 million barrels, resulting in a cumulative fill of 230.3 million barrels by the end of 1981, which doubled the Reserve inventory from the December 1980 level. We exceeded an average daily fill rate of 300 thousand barrels per day for seven months last year with the highest rate of 513 thousand barrels per day achieved in May.

We used several methods to acquire SPR oil during 1981:

- 81 million barrels were acquired under a continuous open solicitation, taking advantage of the favorable spot market conditions which prevailed during this period.
- 20 million barrels were acquired under a commercial contract with Petroleos Mexicanos (PEMEX) in 1981.
- 20.7 million barrels were delivered under the Naval Petroleum Reserves (NPR) exchange agreements entered into in 1980 and from an NPR contract settlement.
- .8 million barrels of Alaskan North Slope crude oil were delivered to the SPR as part of a final settlement of a Consent Order.

There were four reasons for the SPR's oil acquisition success over the past year: (1) the policy impetus and sustained support of top Administration officials; (2) availability of oil storage capacily which had been left unfilled when this Administration took office; (3) favorable oil market conditions; and (4) Congressional approval of nearly $5 billion in appropriations requested by President Reagan since he took office.

For the remainder of FY 1982, we have an additional 23 million barrels under contract and scheduled for delivery. This will increase our cumulative SPR inventory to 267 million barrels at the end of FY 1982.

Since we now have contracted for most of the oil to be delivered to SPR facilities for the remainder of this fiscal year, we have temporarily deferred accepting further offers under the continuous open solicitation. Later this year we will again accept offers for short-term delivery as new storage capacity becomes available. We also plan to solicit contracts later this year for deliveries of oil to fill Phase II storage capacity during fiscal year 1983.

FACILITIES DEVELOPMENT AND OPERATION

We are developing the SPR program in three separate phases to provide 750 million barrels of capacity.

Phase I consists of 250 million barrels of storage capacity at five sites - Bryan Mound in Texas; and Bayou Choctaw, West Hackberry, Weeks Island and Sulphur Mines in Louisiana. It also includes construction of a government-owned terminal facility at St. James, Louisiana. Construction was completed on these sites in 1980, and we expect to complete actual oil fill of Phase I storage in FY 1982.

Under Phase II, we will gain an additional 290 million barrels of storage by expanding three existing Phase I sites. Bryan Mound is being expanded by 120 million barrels, West Hackberry by 160 million barrels and Bayou Choctaw by 10 million barrels. An existing storage cavern will be acquired for the additional capacity at Bayou Choctaw. New caverns will be created at Bryan Mound and West Hackberry through solution mining. Construction of all Phase II surface facilities was completed in 1981.

We started leaching of Phase II caverns at Bryan Mound in 1980 and at West Hackberry in May 1981. To date approximately 50 million barrels of gross cavern volume have been created in the Phase II caverns and we have begun injecting oil into the seven caverns which are available for oil fill at Bryan Mound. Acceleration of cavern development is being achieved through an increase of the leaching rate, which required modification of the brine disposal permit. This permit was granted last August by the Environmental Protection Agency. The increased leaching rate will provide 47 million barrels of additional storage capacity by the end of 1985 over the projections in the FY 1982 budget.

Phase III involves the further expansion of Bryan Mound and West Hackberry by an additional 70 million barrels and development of a new 140 million barrel site at Big Hill, Texas. The Big Hill site, as currently planned, will include fourteen new caverns and the necessary surface facilities, and when filled will increase the SPR drawdown rate to almost 4.5 million barrels per day. The Final Supplemental Environmental Impact Statement for SPR Phase III Development was published in October 1981, with the Record of Decision issued in January 1982. Detailed design was started in 1981, and Phase III construction will begin at Bryan Mound in 1982.

We have submitted a deferral to FY 1983 of FY 1982 budget authority for Big Hill land acquisition and long lead equipment. As the result of an Administration decision to delay completion of the 750 million barrel system by one year, to 1990, start of Big Hill construction is to be delayed one year, until 1984. This delay will have no effect on available storage capacity until 1987. Detailed design, however, will continue in FY 1982.

FY 1983 BUDGET REQUEST

The President's FY 1983 budget proposes a total of $2,316,178,000 in appropriations for the Strategic Petroleum Reserve. Of this total, $242,118,000 is for the on-budget Strategic Petroleum Reserve account to be used for storage facilities development and operations, planning, and program direction, and $2,074,060,000 is for the off-budget SPR Petroleum Account. A further element of the President's FY 1983 budget is the deferral of $52,860,000 in FY 1982 appropriations for certain Phase III development activities.

During FY 1983 we will continue to fill the Strategic Petroleum Reserve to the full level of storage capacity as it becomes available. We expect to fill the SPR at an average daily fill rate of about 209 thousand barrels per day which would increase the cumulative fill level to 343.1 million barrels by the end of FY 1983.

OFF-BUDGET APPROPRIATION FOR PETROLEUM ACQUISITION AND TRANSPORTATION

The President's FY 1983 budget proposes an appropriation of $2,074,060,000 to the off-budget "SPR Petroleum Account" established pursuant to the Omnibus Budget Reconciliation Act of 1981. We plan to by 53 million barrels from the proposed FY 1983 appropriation, about 7 million barrels of which will be delivered in FY 1983, with the remaining 46 million barrels planned for delivery in FY 1984.

Since our existing appropriations through FY 1982 will permit contracting for a cumulative 336 million barrels, we are nearly in a position to fill the SPR storage capacity through the end of FY 1983 using only FY 1982 and prior year funding.

The substantial purchasing power of our FY 1982 and prior year funds explain why the further appropriations proposed for FY 1983 are significantly below the FY 1982 budget authority level. Actual outlays are expected to be approximately the same in FY 1982 and FY 1983--above $2.8 billion in each year. As provided by the Omnibus Budget Reconciliation Act of 1981, these outlays are not counted within Federal budget totals.

FACILITIES DEVELOPMENT

The FY 1983 budget request for facilities development and operations is $222,528,000. The proposed FY 1983 budget will permit continuation of Phase II capacity development, completion of Bryan Mound Phase III construction, and continued development of West Hackberry. With respect to facilities development, the proposed FY 1983 budget updates the baseline schedule for leaching new storage capacity primarily due to the decision to increase the leaching rate at the Bryan Mound site. As a result, we are now projecting a cumulative oil storage capacity of 456 million barrels by the end of FY 1985, an increase of 47 million barrels from the 409 million barrel projection for FY 1985 associated with the FY 1982 budget baseline. The deferral of funding for long-lead equipment purchases and real estate acquisition for the Big Hill

Phase III site from FY 1982 to FY 1983 is the result of a decision to delay completion of the 750 million barrel system from FY 1989 to FY 1990. In the context of the Administration's policy of fiscal restraint, the reconfiguration of the SPR facilities development schedule represents the Administration's decision to focus SPR resources on the near-term (e.g. pre-1985) period when we are relatively more vulnerable. The one-year delay in initiation of Big Hill construction will reduce outlays by $175,000,000 in FY 1983 and FY 1984 while having no effect on storage capacity until 1987. At that point, the SPR will be more than two-thirds filled and the nation considerably less vulnerable to supply disruptions.

NON-PHASE SPECIFIC

This funding category was established several years ago to finance SPR facilities requirements not directly associated with specific phases of SPR development. For FY 1983, we propose a total of $86,728,000 for Non-Phase Specific activities, including Continuing Engineering ($8,648,000), Operations and Maintenance ($37,345,000) and Safety, Reliability, and Security Upgrades ($40,735,000).

Continuing Engineering activities in FY 1983 will remain at approximately the FY 1982 level and are required to identify and resolve technical problems, maintain an accurate definition of the SPR system and promote an integrated systems approach to SPR development activities.

Operations and Maintenance activities will be required for the duration of the SPR program but are particularly intensive during the period of facilities development and fill. Some operations and maintenance activities are funded within specific Phases, particularly those directly associated with storage cavern development. Others are funded through this Non-Phase Specific activity. The increase in budget authority proposed for FY 1983 reflects a combination of our ongoing reestimation and definition of operations and maintenance requirements plus the particular manner in which funding for these requirements is distributed among budget line items.

The Safety, Reliability and Security Upgrades program is an ongoing effort to modify existing SPR facilities from the original design criteria to new and more stringent criteria which emphasize safety, reliability, and security and provide more assurance of readiness of the SPR system for drawdown. A backlog of these projects has developed and the increase in funding in FY 1983 is intended to reduce this backlog and enhance system performance capabilities.

The final portion of my testimony covers the Naval Petroleum and Shale Oil Reserves.

NPOSR BACKGROUND

The Naval Petroleum and Oil Shale Reserves (NPOSR) consist of three petroleum reserves -- two in California and one in Wyoming -- and three oil shale reserves -- two in Colorado and one in Utah. They were established by a series of Executive Orders between 1912 and 1924 to provide a source for emergency petroleum supplies for the Navy.

Naval Petroleum Reserve No. 1 (NPR-1) consists of 47,985 acres located 35 miles southwest of Bakersfield, in Kern County, California. It was established in 1912 after the Secretary of the Navy asked for the cooperation of the Secretary of the Interior in securing the reservation for the Navy of oil-bearing public lands in California sufficient to insure a supply of 500 million barrels of oil. In response to this request, the U.S. Geological Survey recommended an area, Elk Hills in Kern County. Subsequent exploration has proven the wisdom of that choice, as recoverable reserves exceeded 1 billion barrels.

Naval Petroleum Reserve No. 2 (NPR-2) consists of 30,181 acres adjacent to and south of NPR-1. It was also established by Executive Order in 1912, and has been leased continuously since the early 1920's, producing over 600 million barrels of crude oil and leaving now only about 3% of recoverable reserves in place. Naval Petroleum Reserve No. 3 (NPR-3) consists of 9,481 acres located 35 miles north of Casper, Wyoming, in Natrona County. This Reserve was established by Executive Order in 1915. It was developed and produced until December 31, 1927, when the Reserve was shut-in following action by the Government to cancel the leases. The field remained in a shut-in status until the 1976 Production Act, except for a short exploratory program during 1951-1953, and an off-set drilling and production program initiated in 1958 to prevent drainage from the Reserve.

In 1976, the Naval Petroleum Reserves Production Act was passed which mandated that the Reserves be produced at their maximum efficient rates for six years, ending April 5, 1982. This Act also included provisions for extending production beyond that date in three year increments. It was intended that revenues from the sale of the petroleum would help offset the costs of exploring and developing the Reserves and the costs related to the Strategic Petroleum Reserve which was authorized in 1975. The 1976 Act did not change the national defense character and mission of the Naval Petroleum Reserves.

The Naval Oil Shale Reserves were originally set-aside as a further guarantee of oil for the Navy in future emergencies. Until 1977, the only activity at the Naval Oil Shale Reserves had been research conducted at a facility on Naval Oil Shale Reserve No. 3. In 1977, a Five-Year Predevelopment Program was initiated to analyze the resource, technical, environmental and socioeconomic factors related to future development of the Oil Shale Reserves. In regard to oil shale, this work largely has been completed. Assessment of the conventional oil and gas potential of these Reserves is continuing.

FY 1981 AND FY 1982 PROGRAM HIGHLIGHTS AND ACCOMPLISHMENTS

The Naval Petroleum and Oil Shale Reserves continued in 1981 to demonstrate their flexibility as vital national defense resources by providing petroleum both to the Department of Defense and to the Strategic Petroleum Reserve. The Reserves also contributed to the local petroleum industry by providing high quality crude oil, natural gas and liquid products for sale. Sale and exchanges for the Government's share of petroleum produced at the Reserves generated revenues of $1.6 billion for the U.S. Treasury, with program expenditures of approximately $216 million.

A major decision was reached in 1981 to continue production of the Naval Petroleum Reserves at their maximum efficient rates for three years beyond the initial six-year period ending April 4, 1982. Although the decision by the President was based primarily on economic considerations, the Department of Defense will benefit by receiving all of the Government share of crude oil production from the Reserves beginning May 1, 1982. DOD will exchange the crude for military fuels delivered at various locations in the United States. The exchange is open to all companies regardless of size thereby assuring competition. This assured supply of oil will help insulate the Department of Defense from the adverse impacts of future crude oil shortages.

Oil produced at Naval Petroleum Reserve No. 1 was also used indirectly to help resume fill of the Strategic Petroleum Reserve. The exchange program through which NPR-1 oil was exchanged for oil delivered to SPR storage sites was concluded November 1, 1981. Over the year preceding that date, an average of 103,472 BOPD were sold to six companies who provided an equivalent amount, totaling 36.7 million barrels, for storage in the Strategic Petroleum Reserve.

The past year was also notable in that the largest Reserve, NPR-1, reached its peak production rate. Production averaged 171,533 BOPD for the year, peaking at 181,800 BOPD in July 1981. The production rate had declined to about 172,000 BOPD by the end of calendar year 1981, and the rate will continue to decline as the Reserve is produced at the maximum efficient rate. Production of oil at NPR-3 remained stable, averaging 3,393 BOPD in 1981.

Attached to this statement is a statistical summary which includes exploration, development, production and revenue data for fiscal years 1981, 1982 and 1983.

FY 1983 BUDGET REQUEST

The FY 1983 Budget Request of $232,500,000 supports the President's decision to continue production of the Naval Petroleum Reserves at their maximum efficient rates and the Secretary's decision to forego further activity at the Naval Oil Shale Reserves at this time.

The budget request for the Naval Petroleum Reserves in California (NPR-1 and NPR-2) is $207,417,000. The funding is requested in four categories: (1) Operations and Maintenance ($102,267,000); (2) Exploratory Drilling ($10,000,000); (3) Development Drilling ($89,813,000); and (4) Development Facilities ($5,337,000).

The bulk of the Operations and Maintenance funds will be used to continue normal oil-field operations. For example, $38,025,000 will be used for the normal maintenance and repair of pipelines, tank settings and other field equipment; maintenance of the roads; operation of the water injection systems; maintenance of the electrical distribution system; and related activities. Another $17,198,000 will be used to fund various remedial actions needed to maintain wells in an optimum producible condition. Such actions include recompletions, well stimulation measures, artifical lift installations, and others. At an average cost of about $60,000 per well, the budget would permit work on an estimated 282 wells.

Also, in the Operations and Maintenance category, some $20,462,000 will be needed for the operations and maintenance of the gas plants and the liquid products loading racks. This covers all the facilities which are processing about 300 MMCF/D of natural gas and 600 thousand gallons per day of liquid products.

The request of $89,813,000 for Development Drilling is based on an optimum drilling program including water and gas injection as well as producing wells. To maintain maximum efficient production, an estimated 80 to 90 wells will be required annually for some period; this request provides for 85 wells.

The Development Facilities request is for $5,337,000. This category is reduced from prior years because the major constuction project at NPR-1, the California Development Project consisting of 25 separate construction projects, has been fully funded for $361,200,000. Because it has been determined that one of the projects, the rail-loading facility, will not be needed, with the Committee's concurrence, $5,000,000 of those funds will be applied to FY 1983 facility projects. The total facility construction program for FY 1983, therefore, will consist of $10,335,000 for a variety of field projects.

The Exploration Drilling request is for $10,000,000. This will fund three wells to be drilled in areas with geological characteristics similar to current producing areas.

The FY 1983 Budget Request for Naval Petroleum Reserve No. 3 (NPR-3) is $19,855,000. Almost two-thirds of this request, $12,605,000, is to support routine Operations and Maintenance activities. The other requests include $5,750,000 for the Development Program, most of which is for drilling in-fill wells, and $1,500,000 for the operation and evaluation of the Enhanced Oil Recovery Pilot projects. If the pilot program is successful, full-scale operations would be inititated in FY 1984.

The Naval Oil Shale Reserves request has been reduced in FY 1983 to $90,000. This reflects completion of the Five-Year Predevelopment Program for these Reserves to assess the resource and the preparation of a Programmatic Environmental Impact Statement. The program has been very successful in providing information which will greatly expedite a development program at the appropriate time. The FY 1983 request will support a limited monitoring of the environment, including hydrology, and will fund the land management program conducted by the Bureau of Land Management.

The final category is Program Direction, which is used primarily to pay salaries, benefits, travel and training for the 120 Civil Service employees who manage this program. The FY 1983 Budget Request for this category is $5,138,000.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions.

Attachment

SELECTED STATISTICAL DATA

	FY 1981 Actual	FY 1982 Estimated	FY 1983 Estimated
NPR-1			
Production			
Oil (MBOPD)	171.5	172.0	157.0
Liquid Products (MGAL/D)	508.3	617.0	700.0
Gas (MMCF/D)	276.8	304.0	350.0
Revenue ($ Million)			
Oil*	$1,430.5	$1,536.2	$1,455.7
Liquid Products	82.0	92.6	116.3
Gas	61.5	71.6	78.9
TOTAL	$1,574.0	$1,700.4	$1,650.9
Wells			
Drilled (Annual)	49	95	88
Cumulative (All Sources)	2,055	2,150	2,238
Producible	1,160	1,262	1,299
Average Wells on Production	1,081	1,161	1,195
NPR-3			
Production			
Oil (MBOPD)	3.4	3.6	3.0
Liquid Products (MGAL/D)	16.1	16.0	18.0
Gas (MMCF/D)	7.7	8.0	8.0
Revenue ($ Million)			
Oil*	$44.9	$46.9	$39.7
Liquid Products	2.3	2.9	3.2
Gas	.1	2.3	2.5
TOTAL	$47.3	$52.1	$45.4
Wells			
Drilled (Annual)	22	23	21
Cumulative (All Sources)	679	702	723
Producible	454	460	470
Average Wells on Production	439	450	460

* Includes Windfall Profit Tax

QUESTION 8: What are the prevailing terms for dealing on the spot market for crude oil and petroleum products (e.g., minimum quantity to be purchased, transportation, storage and payment)?

ANSWER: It is difficult to speak of "prevailing terms" because in today's market there are considerable differences between individual spot transactions. Spot market transactions often are carried out through brokers or traders at prices set by supply and demand conditions obtaining at the time of the deal. The terms involved in such transactions are variable, depending on the specifics of the transactions. Spot crude oil and product purchases are made on a contractual basis restricted by the stipulations placed by the seller and the needs of the purchaser, e.g., minimum/maximum quantities needed; type of transportation, i.e., tanker, pipeline, tankcar; etc. Payment is usually required 30 days from time of delivery; storage may be stipulated as a part of the contractual arrangement and is usually located close to where the crude/product will be used, i.e., refinery, tank farm, etc.

QUESTION 8a: What are the general terms between contract suppliers and jobbers?

ANSWER: The general terms between contract suppliers and a jobber will depend in part on the type of crude oil/product sold. These terms may include provisions concerning minimum purchase by the buyer; right of the supplier to restrict or allocate volumes during periods of restricted supply; and other conditions that could affect the business relationships.

QUESTION 8b: Do these terms differ if the jobber is an independent rather than an affiliate of the supplier?

ANSWER: Yes. Most suppliers give priority as follows: (1) company jobber, (2) company branded jobber (jobber restricted to purchasing the supplier's product only); (3) unbranded independent jobber.

QUESTION 8c: Is it possible that an independent jobber could be held to more onerous requirements than a jobber affiliated with the supplier during a shortage?

ANSWER: Yes, since most suppliers give preferential treatment to their own affiliated entities. This is usually stipulated contractually and the independent jobber is well aware of this condition. It should be noted, however, that how the independent jobber is treated in an emergency will be dependent usually on what his relationship was with the supplier under normal supply conditions. In other words, if the supplier expects to continue a profitable relationship with the independent when market conditions are normal, then the independent can expect to be treated accordingly. Moreover, legal considerations such as the Uniform Commercial Code's requirement for fair and reasonable allocation among customers may influence the supplier's decisions.

EXECUTIVE MANPOWER RESERVES

QUESTION 9: What was the origin of the decision to revive the Emergency Manpower Reserves program and what is the rationale for the revival?

ANSWER: The revival of the National Defense Executive Reserve program at the Department of Energy is part of the overall Administration effort to improve emergency preparedness capability. These Reserves are being resuscitated in order to make private sector expertise available to the Federal Government in coping with energy emergencies.

Various materials explaining this background and rationale have been provided to the Committee. See, e.g., Items 1-7, 10-13, and 17, as listed in Attachment A to the April 26, 1982, letter from DOE's R. Winkler to the Committee staff's R. Grundy.

Attachment to Question #9

Department of Energy
Washington, D.C. 20585

APR 26 1982

Mr. Richard Grundy
Professional Staff Assistant
Senate Committee on Energy and
Natural Resources
Room 3208
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Dick:

We are enclosing with this letter a number of documents which the Committee Staff requested last week. A list of those documents is attached to this letter as Attachment A.

As you know, we have previously sent to you a number of other materials, a list of which is attached to this letter as Attachment B.

I trust that these materials are responsive to your request. All of us at the Department of Energy, and particularly Bill Vaughan and I, want to do everything we can to assist the members and staff of the Senate Energy Committee, as well as all of the appropriate members of Congress and their staff, in their work on energy issues of concern to the Nation.

Please do not hesitate to contact me if you need further information.

Sincerely,

Ron

Ronald L. Winkler
Deputy Assistant Secretary
for Energy Emergencies
Environmental Protection, Safety,
and Emergency Preparedness

Enclosures

LIST OF MATERIALS PROVIDED TO SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON APRIL 26, 1982

1. Emergency Solid Fuels Administration--Management Review Memorandum Prepared by LEMR Branch, Nov. 9, 1981
2. Emergency Petroleum and Gas Administration--Management Review Memorandum prepared by LEMR Brancy, Nov. 9, 1981
3. EEPA Management Review Memorandum, prepared by LEMR Branch, Nov. 2. 1981
4. FEMA Federal Preparedness Circular 24, dated April 4, 1980
5. Memo reporting on NDER Conference Committee Meeting, March 17, 1982
6. Memo on DOE Headquarters Staff Meetings with EEPA Field Organization, dated Sep. 21, 1981
7. Mission and Functions of Emergency Executive Reserves, dated April 21, 1982
8. User's Manual for the ESRS, dated April, 1982
9. Alert Coordination Officer System Log Analysis, prepared April 22, 1982
10. FEMA press release on NDER program, dated March 31, 1982
11. Memo on Emergency Preparedness and Conflicts of Interest, prepared by DOE OGC, dated June 4, 1979
12. Draft Memo on Scenarios: Reserves Utilization, dated April 9, 1982
13. Memo with follow-up material to EPGA Management Review, dated Nov. 19, 1981 (which includes material on aborted call-up of executive reserves in 1973)
14. Draft SPR Drawdown Information Guidebook, dated April 11, 1982
15. March 1982 paper by W. Hogan entitled "Oil Stockpiling: Help thy Neighbor" (3 copies)
16. Jan. 1982 paper by T. Birdsall entitled "Should environmental standards be relaxed during oil supply disruptions? Theory and policy recommendations.
17. Transcript of Feb. 10, 1982 EEPA Workshop, sponsored by DOE

LIST OF MATERIALS PROVIDED TO SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES PRIOR TO APRIL 26, 1982

1. Letter of March 23, 1982 from Assistant Secretary Vaughan to Hon. James T. Broyhill, with accompanying Memorandum

2. Draft Preliminary Methodology for Making SPR Use Decisions, dated Sep. 3, 1981

3. Draft Workplan: Inventory Incentives, dated April 14, 1982

4. Interim Draft Report, Revision 1, Distribution Management Manual for the SPR, dated April, 1982

5. March 11, 1982 Memorandum on Emergency Manpower Reserves Programs, with four attached memoranda dated Oct. 9, 1981, Sep. 21, 1981, Sep. 30, 1981, and Sep. 30, 1981, and copy of letter to NERC dated March, 1982

6. April 5, 1982 Task Order to ICF, Inc. for work in impact mitigation options in energy supply disruptions (economic impacts)

7. April 1, 1982 cover memorandum on Emergency Public Information Program, with three attachments

8. Workplan on Economic Effects of Supply Disruptions, dated March 31, 1982

9. Activity Summaries, Office of Energy Contingency Planning, dated April 15, 1982

10. Personnel Assignments and Project Workplans for the Plans Development and Testing Division, dated April 12, 1982

11. Activity Summaries, Office of Energy Emergency Operations, dated April 12, 1982

12. April 1981 ICF report on Mechanisms for Recycling Federal Tax Revenues to Individuals and Households in the event of a suddent increase in the price of oil

13. Cabot report dated Sep. 26, 1980 on Selected Economic Issues in Petroleum Supply Shortfalls and Tax Revenue Distribution

14. Cabot report dated Jan. 9, 1981 on Preliminary Assumptions: Hardship income redistribution mechanism

15. Cabot report dated Nov. 17, 1980, on Comparison of Administrative implications of Alternative rebate Mechanisms

DEPUTY ASSISTANT SECRETARY
ENERGY EMERGENCIES

ACTIVITY SUMMARIES

OFFICE OF
ENERGY CONTINGENCY PLANNING

Ronald L. Winkler
Deputy Assistant Secretary
Energy Emergencies

Finn K. Neilsen
Acting Office Director
Energy Contingency Planning

APRIL 15, 1982

OFFICE OF ENERGY EMERGENCIES
ENERGY CONTINGENCY PLANNING

ACTIVITY SUMMARIES

INTERNATIONAL

IEA Supply Right Project 1
IEA Fair Sharing Project 2
IEA Allocation System Test-4 3
IEA National Emergency Sharing Organization Plan 4
NATO Test Exercises 5
NATO National Oil Board Operations Manual 6

STRATEGIC PETROLEUM RESERVE

Strategic Petroleum Reserve: Logistics 7
Strategic Petroleum Reserve: Phase B Exercise 8
Strategic Petroleum Reserve: Drawdown Policy 9

OIL RESERVES

Short-Term Adequacy of Oil Stocks 10
Incentives for Private Oil Stocks 11

PUBLIC INFORMATION

Public Information Plan 12
Public Information Operations Manual 13

DEFENSE PREPAREDNESS

Jones Act Waivers/Panama Canal 14
Defense Production Act Plan/Defense Energy Requirements . 15
Major Military Emergency Planning 16
Test Exercises: FUELEX 17
                REX-82 ALPHA/BRAVO 17a
Mobilization Response Study: Economic Effects 18

ECONOMETRIC MODELING

Regional Capabilities for Dealing with Shortages 20
Economic Effects of Supply Disruptions 21a

EMERGENCY MANAGEMENT

Management Operating Procedures 22

IEA SUPPLY RIGHT PROJECT

DESCRIPTION

The supply right project is a survey of options such as import quotas or tariffs that the USG can implement to reduce or eliminate the likelihood that an allocation obligation would be incurred when the IEA emergency sharing system is triggered. An allocation obligation is the amount of oil above or below a country's supply right, that a country is obligated to offer to the IEA's emergency sharing system.

PRODUCTS/ESTIMATED COMPLETION DATE

- Interim products are:
    - -- An options paper containing pros and cons as well as analytical backup -- due the last week of July.
    - -- Interim action plans for each option outlining the procedures and resources needed for putting an option into a state of readiness -- due the last week of August.
- A decision memo upon which the Administration can determine a policy path, due September 1982.
- Final products will be additional or revised action plans consistent with decision memo conclusion.

ISSUES AND/OR PROBLEMS

The issue not addressed in this project is the basis upon which the Administration should implement a mechanism to reduce or eliminate an allocation obligation. Moreover, if an allocation obligation or right is incurred, the fair sharing project examines options to deal with the situation.

IEA FAIR SHARING PROJECT

DESCRIPTION

If the Emergency Sharing System (ESS) of the International Energy Program (IEP) is activated, the U.S. could incur an allocation obligation. The Government must, therefore, maintain the ability to share oil internationally during a declared emergency triggering the ESS. We have, therefore, structured a project to develop contingency plans to support the voluntary and mandatory offer systems should the U.S. have an allocation obligation.

A fair sharing system is not required under the IEP. However, the International Energy Agency recommends, and the Administration has agreed, that countries should create an atmosphere whereby any requirement to share oil is met and any losses incurred by oil companies are shared equitably.

PRODUCTS/ESTIMATED COMPLETION DATE

- Preliminary paper on options to share losses under voluntary and mandatory phases of the ESS - April 15.
- Final options paper - May 28.
- Comprehensive cost/benefit analysis - July 30.
- Preliminary action plans for workable options - July 30.
- Decision memo - August 17.
- Final action plans - September 30.

ISSUES AND/OR PROBLEMS

Members of the DOE task force are approaching the fair sharing problem from widely diverging perspectives. In addition, there remain differing estimates of: the existence and size of probable allocation obligation; the existence of potential barriers to voluntary offers; the ability to allocate at market price; the necessity to go to the mandatory system; and the losses, if any, which need to be shared. The final options paper will reflect a consensus on these difficult problems.

IEA ALLOCATION SYSTEM TEST-4

DESCRIPTION

Periodically the IEA Secretariat, in concert with IEA member and the Reporting Companies (i.e., oil companies which participate directly in IEA activities and have signed the voluntary agreement on the International Energy Program), conduct an exercise of the IEA Emergency Sharing System in order to assess the operational effectiveness of the system, to train persons in the operation of the system, and to evalute the ability of IEA nations to respond to disruptions including the effects of domestic response measures on the international sharing system. These exercises are known as Allocation System Tests.

This project encompasses EP's involvement in both the planning for and execution of the IEA's fourth Allocation System Test (AST-4). Planned activities include: overall exercise design--EP is a member of the U.S. delegation to the international AST-4 Design Group; development of U.S. exercise goals and objectives--what does U.S. intend to get out of the exercise?; selection and training of U.S. exercise participants--both "players" and "test evaluators" will need to be prepared; preparation of necessary econometric models needed to simulate disruption impacts; data preparation coordination--EIA has the lead to provide exercise data but oversight is required; and arrangement for physical facilities and communication equipment required for the exercises--in coordination with DOE AS/MA.

PRODUCTS/ESTIMATED COMPLETION DATE

Various issue papers, briefing books for meetings, and like products will be required: in connection with the development of objectives and parameters of the exercise; with regard to both the international design effort and the development of U.S. exercise goals and objectives. These will be produced on an ad hoc basis as the design effort proceeds.

Draft AST-4 Test Guide -- September 1982.

ISSUES AND/OR PROBLEMS

The nature and extent of U.S. participation in the exercise are not yet settled. The extreme alternatives are: (1) use limited resources and participate in the exercise without simulating the U.S. Government response activities, and (2) perform an extensive exercise attempting to simulate most U.S. response activities and involving States. Preparation for the test depends upon this decision.

Also, all of the issues associated with the development of the U.S. NESO Management Plan affect the preparation and execution of the exercise.

IEA NATIONAL EMERGENCY SHARING ORGANIZATION PLAN

DESCRIPTION

The term "National Emergency Sharing Organization" (NESO) was coined by the IEA to denote the body within each IEA country responsible for, in general: (1) liaison with the IEA on matters of international oil allocation during an emergency; and (2) national oil emergency matters. By Executive Order, the Department of Energy functions as the U.S. NESO, and the ongoing missions of a number of DOE Offices include duties which carry out NESO responsibilities.

The goals of this project are: to identify the discrete operations which are implied in the general definition of NESO responsibilities; to associate these operations with specific Federal Governmental offices (some may not be DOE offices); to identify the flow of operations between offices in performing NESO duties; to suggest new or modified operating procedures, system flows, communications links which will enhance performance; and to document these operations, responsibilities and systems.

This project will be carried out in conjunction with DOE's preparation for an exercise of the IEA Emergency Sharing System, AST-4, since preparation for such an exercise will emphasize NESO operations.

PRODUCTS/ESTIMATED COMPLETION DATE

Interim NESO Management Plan (covering data submissions to IEA, certain interruption impact analyses, and DOE antitrust activities) -- April 30, 1982.

Additional activity descriptions and finalization of the "plan" to be completed incrementally as issues are resolved (see below).

ISSUES AND/OR PROBLEMS

Full identification and documentation of DOE NESO duties depend upon major policy/program management decisions concerning: the nature and design of a "fair sharing" scheme; the involvement of the U.S. Government in seeking voluntary offers (which is affected by the "fair sharing" decision); the type of mechanism (if any) to be used in the "mandatory offer" phase; the use of the SPR to meet IEA obligations; and, the use of other mechanisms--for example, an import quota or a tax--to affect oil availability or the demand for petroleum during a disruption.

NATO TEST/EXERCISES

DESCRIPTION

The Office of Energy Emergencies, as part of its responsibility to support the U.S. commitment to the North Atlantic Treaty Organization (NATO) Civil Emergency Planning Organization, is in the process of preparing for an upcoming test called WINTEX-CIMEX. All NATO members are expected to participate.

Liaison with the following organizations will be exercised: (1) the Petroleum Planning Committee (PPC) which has the task of developing plans for the distribution of available oil supplies among NATO members if there are supply shortages during crisis or war and (2) the NATO Wartime Oil Organization (NWOO) which is NATO's emergency petroleum organization.

As part of the National Oil Board (NOB) Operations Manual project (see separate summary), a test of the NOB will be conducted by DOE in August 1982. This will result in the development of a detailed test guide in late 1982.

PRODUCTS/ESTIMATED COMPLETION DATE

WINTEX-CIMEX will take place in February 1983. It will provide the opportunity for the U.S. to staff its NOB round-the-clock. The objectives include testing the oil crisis management procedures and testing the interface NOB and NWOO, and NOB and NATO executive boards. Several reports will be prepared for the test including exercise, control and evaluation plans and an after-action report.

ISSUES AND/OR PROBLEMS

None.

NATO NATIONAL OIL BOARD OPERATIONS MANUAL

DESCRIPTION

The United States is obligated by the North Atlantic Treaty to respond to various peacetime and wartime conditions affecting members of the North Atlantic Treaty Organization (NATO). Within the NATO organization, the Petroleum Planning Committee (PPC) has the task of developing plans for the distribution of available oil supplies among NATO members if there are supply shortages during crisis or war. These plans would be activated by a decision of the North Atlantic Council (NAC).

The NATO Wartime Oil Organization (NWOO) is NATO's emergency petroleum organization and would implement plans activated by the NAC. Like the International Energy Agency (IEA), NWOO's international operations are highly dependent on the supply of national emergency programs. NATO refers to national oil authorities as National Oil Boards (NOB), which are analogues to the National Emergency Supply Organizations (NESO) of the IEA. When the NWOO is operational, NOB's provide the NWOO with information on oil requirements and available supplies, implement NATO's international oil supply program pursuant to national authority and act as the U.S. liaison agency for energy conacts with the NATO countries.

PRODUCTS/ESTIMATED COMPLETION DATE

The Office of Energy Emergencies (EE) has established an intra-agency task force to coordinate the development of these NATO contingency plans. As part of this process, we are assessing our role in support of the NWOO. A key product of this assessment will be the development of the NOB operations manual. When completed, it will contain the organizational structure and various operating procedures required to meet our NATO commitment (with emphasis on NATO oil supply and distribution schemes). We anticipate completing an interim manual by June, after which it will be circulated to an interagency group for comment. After the necessary changes have been made, we will conduct (during August 1982) an internal DOE test of this plan. This DOE test will provide a basis to prepare for participation in a NATO-sponsored test scheduled for early 1983, which will require a simulation of the U.S. NOB operations.

ISSUES AND/OR PROBLEMS

At this stage of development, no substantial issues or problems have been identified. However, we expect that there will be NATO energy policy related issues presented at the various PPC meetings and training sessions. These policy issues will be handled in coordination with other relevant DOE offices.

STRATEGIC PETROLEUM RESERVE: LOGISTICS

DESCRIPTION

The SPR presently has five sites from which it can distribute crude oil. These sites are connected to interstate and local pipelines and waterways. The drawdown capability of each site is shown below. It should be noted that these capabilities will increase as the amount of oil fill increases.

Site	Distribution System Pipeline	 Tanker Terminal	Drawdown Rate (thousand bbl/d)
Bryan Mound	Seaway	Seaway	387
West Hackberry	Texoma	Sunoco	402
Sulphur Mines	Texoma	Sunoco	100
Bayou Chactaw	Capline	DOE/St. James	240
Weeks Island	Capline	DOE/St. James	590
		TOTAL	1,719

The areas where SPR oil will actually be delivered depends upon the nature of the shortage and the sales method and drawdown policy existing at the time of a drawdown. Detailed procedures related to development of drawdown policies and operational requirements will be developed by late summer 1982.

PRODUCTS/ESTIMATED COMPLETION DATE

The SPR's logistics system is described in its annual report. The SPR continually evaluates the current capabilities of both SPR and industry's petroleum distribution systems. Currently, as part of on-going analysis of SPR's drawdown capability, the SPR is performing a comprehensive study that will update its distribution capability. The updated documentation is expected to be completed within one year.

The conducting of a "Phase B" exercise requires the development of a SPR Distribution Management Manual as the vehicle by which detailed procedures and forms for selling SPR will be developed and tested. It does not appear that the Phase B exercise will occur before September 1982.

ISSUES AND/OR PROBLEMS

There is great flexibility in the SPR logistics system as it consists of centralized storage in the Gulf Coast which is connected to the normal crude oil distribution system, namely, the three major interstate pipelines. DOE feels that this logistics system will be fully effective during a supply emergency.

Currently, however, the three pipelines are decreasing their capacities due to substantial reductions in the level of crude oil imports. If that trend continues, actual SPR capabilities may, at some time in the future, be restricted by lessened pipeline capacities.

STRATEGIC PETROLEUM RESERVE: "PHASE B" EXERCISE

DESCRIPTION

A Phase "B" test of the Strategic Petroleum Reserve (SPR) will be held as part of the preparation of the SPR Distribution Manual. Tests of the SPR have been divided into three phases and several levels. Phase A tests refer to physical drawdown tests which demonstrate the integrity and capacity of the equipment and sites. Two successful such tests have been conducted in the past. Phase B tests refer to tests of management, administration and non-physical procedures. Phase C tests combine both A and B type tests. Tests may also be conducted at several levels: a single site (such as Bryan Mound), a group of sites (such as the Capline Group) or all of the sites. The test currently planned will cover management, policy and administrative procedures for the entire SPR. It will simulate two-procurement cycles, the equivalent of about a two months sales period.

PRODUCTS/ESTIMATED COMPLETION DATE

This exercise will provide the opportunity for responsible staff to participate in a simulated crisis environment. It will also validate the procedures now being developed in the SPR Distribution Management Manual. Several reports will be prepared for the exercise including exercise, control and evaluation plans, and an after-action report. The exercise is scheduled for no earlier than September of 1982. Plans will be issued in the summer of 1982 and an after-action report in the winter.

ISSUES AND/OR PROBLEMS

It has not been determined to what extent and how the procedures which lead to a recommendation and use of the SPR will be tested. These procedures include the situation analyses, development and evaluation of deployment and response options, and review of recommendations within DOE.

STRATEGIC PETROLEUM RESERVE:
DRAWDOWN POLICY

DESCRIPTION

This project will examine the objectives of SPR use policy, both prior to and during an interruption. For example, prior to an interruption, U.S. objectives may include: (a) deterrrence, (b) influencing preparedness on the part of our allies, and (c) influencing private sector preparedness. During an interruption, U.S. objectives might include: (a) limiting economic loss, (b) maintaining national security, and (c) minimizing policy conflicts between U.S. and allied nations. The project will examine SPR use policy in terms of its contributions to national objectives, and in the context of overall energy emergency policy. Consideration will be given to the interactions between SPR use policy and: (a) private sector inventory policies and (b) oil stockpile policies of other IEA signatories.

Specific alternative SPR use decision rules will be examined and evaluated, possibly using war gaming techniques. In addition, consideration will be given to SPR declaratory policy and to other means by which the U.S. can signal and influence the actions of other countries and the private sector.

PRODUCTS/ESTIMATED COMPLETION DATES

Draft Workplan. 5/15/82

ISSUES AND/OR PROBLEMS

(1) What are the objectives of SPR use policy?

(2) How should SPR drawdown policy be structured to take into account the dynamics of a supply interruption and the lags involved in the SPR process?

(3) How can SPR use policy be integrated with other energy emergency actions?

(4) What are the gains from, and the feasibility of, developing a cooperative stock drawdown policy with other IEA signatories?

(5) How does SPR use policy influence private inventory decisions?

(6) What are the advantages and disadvantages of a decision rule for SPR use formulated in advance of an emergency? What would it be based upon?

(7) How can SPR use policy best be tested or validated so that the exercise (itself) contributes to policy objectives which apply in the absence of an emergency (e.g., deterrence)?

SHORT-TERM ADEQUACY OF OIL STOCKS

DESCRIPTION

An examination will be made, on a quick turnaround basis, of recent changes in, and present levels of, primary, secondary, and tertiary domestic oil stocks and foreign stocks. A rough projection will be made of changes in stocks over the next year. An assessment will be formed as to whether stocks are adequate to deal with a near-term supply interruption and, if not, what measures could be taken to provide a rapid buildup of inventories.

PRODUCTS/ESTIMATED COMPLETION DATES

(1) Preliminary report. 6/30/82

(2) Final report. 8/31/82

ISSUES AND/OR PROBLEMS

(1) Is there a current reduction in private inventories in progress? Is it concentrated at the primary, secondary, or tertiary level? Estimate its extent. What is happening to foreign stocks?

(2) What level of stocks (public, private, domestic, foreign) is adequate for dealing with a supply interruption in the near term?

(3) What is the level of stocks that are currently available, and projected to be available over the next year, to mitigate a supply disruption (that is, stocks over and above normal working requirements)? What percent utilization of available capacity does that represent?

(4) What measures would be most effective to bring about a short-term increase in stocks?

(5) If the Federal government were interested in a monitoring program for secondary and tertiary petroleum inventories, how could it best be designed and conducted?

INCENTIVES FOR PRIVATE OIL STOCKS

DESCRIPTION

An explanation of factors influencing private oil inventory decisions. An evaluation of alternative Federal policies for encouraging a buildup of private petroleum safety stocks (stocks above normal working requirements) during normal market conditions and use of those stocks during supply emergencies. A set of plausible Federal incentive programs will be identified. Estimates will be made of the impact of each program on private stocks and of the year-by-year budgetary costs.

PRODUCTS/ESTIMATED COMPLETION DATES

(1) A model for estimating equilibrium private petroleum inventories and for estimating the effect on those stocks of alternative Federal incentive programs. 9/15/82

(2) Preliminary report. 10/15/82

(3) Final report. 12/15/82

ISSUES AND/OR PROBLEMS

(1) What are the principal factors influencing private oil inventory behavior? Sensitivity to each?

(2) What is the optimal mix of public and private stocks over the longer-term?

(3) What are the impacts of public actions (especially SPR policies) on private stock decisions?

(4) What current disincentives exist limiting private stocks?

(5) What is the least-cost method of encouraging the private sector to hold larger discretionary inventories over the longer term?

(6) What restrictions, if any, on the use of Federally subsidized oil would be justified?

(7) How should an incentive program be designed so that only incremental stocks (above what would otherwise be held) are subsidized?

(8) How should the program be designed to keep administrative complexity/cost to an acceptable level?

PUBLIC INFORMATION PLAN

DESCRIPTION

The public information plan, when completed will consist of the following:

- Interim Emergency Public Information Plan

  The Interim Emergency Public Information Plan will consist of a set of public information procedures developed within the framework of DOE's existing organizational structure and information products. The IEPIP will include detailed information on existing resources and the ways in which they can be utilized to inform the the public during energy emergencies. It will be in force until superceded by the final plan (below), which will contain more exhaustive procedural and policy information for dealing with an energy emergency.

- Emergency Public Information Plan

  Includes procedures to be followed to provide timely, accurate, and consistent information to the public about the extent and impact of an energy emergency and the actions the public, State, and local Governments might take in coping with such an emergency. It will also seek to educate the public about U.S. vulnerability to petroleum supply interruptions and Government policies and procedures for ameliorating the effects of such interruptions. The plan will incorporate an Operations Manual which will detail data sources, target audiences, data verification methods, and internal DOE procedures for data dissemination, and procedures for coordination with external agencies and associations.

  An intraagency Task Force has been established to develop both the interim and final plans. To date, members have been tasked with providing assessments of their organization's information flow and data/analytical products appropriate for public dissemination.

PRODUCTS/ESTIMATED COMPLETION DATE

-- Interim Emergency Public Information Plan -- April 26, 1982
-- Emergency Public Information Plan -- September 30, 1982
-- Public Information Operations Manual -- September 30, 1982

ISSUES AND/OR PROBLEMS

The persistent theme of public and State criticisms of DOE information management practices concerns the lack of a single spokesman to enunciate the dimensions, depth, and duration of a crisis, and clarify the roles of the Federal and State Governments in dealing with energy shortages. How to identify such a single spokesman, and reduce the many conflicting or confusing pronouncements by various Federal officials in an emergency, is a critical issue.

PUBLIC INFORMATION OPERATIONS MANUAL

DESCRIPTION

One of the products associated with the Emergency Public Information Plan, the manual will contain specific information as:

- DOE emergency organization to conduct public information activities.
- Target audiences and data required by each audience.
- Specific data items for distribution, with data item descriptions.
- Data verification/validation procedures.
- Methods for rapid communications/liaison with the States and other Federal agencies.

PRODUCTS/ESTIMATED COMPLETION DATE

- Emergency Public Information Plan -- September 30, 1982

ISSUES AND/OR PROBLEMS

- None

DEFENSE PREPAREDNESS
JONES ACT WAIVERS/PANAMA CANAL

DESCRIPTION

To implement procedures jointly with Bureau of Customs, Department of Treasury, which would preimplement or otherwise provide for a semi-automatic issuance of waivers of the Coastwise trading laws prohibiting the use of foreign flag vessels from engaging in domestic transport. The underlying reason for this action is to prepare a contingency response plan which deals with a possible closing of the Panama Canal and/or the interdiction of the trans-Panama crude oil pipeline. If this were to occur, Alaskan crude oil would have to transit around the canal to Eastern U.S. ports and for efficiency would have to employ VLCC's (very large crude carriers) and ULCC's (ultra large crude carriers), most of which are foreign registry.

PRODUCTS/ESTIMATED COMPLETION DATE

Project is just being initiated. A letter will be drafted to Bureau of Customs outlining our intent, and inviting their participation in the drafting of either an interagency agreement or joint concurrance in procedures.

- Letter by April 30, 1982
- Preliminary procedures by May 15, 1982.
- Final procedures/Agreement tentatively planned by July 1, 1982.

ISSUES AND/OR PROBLEMS

The Bureau of Customs has a strong predisposition against any prejudgement of potential requests, as well as any indication that a waiver will be granted. The U.S. Maritime Union has an exceptionally strong lobby with vast congressional support, and Customs is aware of this. At the least, however, we may be able to establish the paperflow and identify the key offices, which would help reduce processing time.

DEFENSE PREPAREDNESS
DPA PLAN/DEFENSE ENERGY REQUIREMENTS

DESCRIPTION

In accordance with instruction recently obtained from the DAS/EE, the Plans Development and Testing Division, Office of Energy Contingency Planning, has begun to assemble an Interagency Task Group for the purpose of preparing a comprehensive procedures manual which will replace current regulations dealing with allocation of crude oil, petroleum products and coal to the DOD under the DPA. This procedures manual will set forth the various action offices, the pertinent authorities and the data requirements necessary to ensure an orderly and expeditious processing of DPA requests. The implementation of this procedural manual will negate the need, at this time, for a general DOE/DOD Memorandum of Understanding.

PRODUCTS/ESTIMATED COMPLETION DATE

- Interagency Task Group assembly should be completed by mid-May.
- Preliminary internal DOE procedures by April 30, 1982.
- Due to the complexity of coordinating a finished document with a growing number of Federal agencies becoming involved with the Task Group, a date for the completion and acceptance of the Interagency Procedures Manual is uncertain. We will press to have it completed near the end of July, 1982.

ISSUES AND/OR PROBLEMS

Associated with this item is the rescission of the current regulation on supplying DOD with crude oil and petroleum products. The Federal Register Notice of Intent should be completed by April 15, 1982.

DEFENSE PREPAREDNESS
MAJOR MILITARY EMERGENCY PLANNING

DESCRIPTION

In addition to the DPA and waiver of the Jones Act plans described separately, this office is pursuing these additional defense related activities:

- DPA amendment; dialogue with DOT on transport claimancy program; coordination of DPA activities with revitalization of the Executive Reserve Programs; participation in DOD's Military Traffic Management Command's (MTMC) military transport COREX (contingency response) exercises; participation on Defense Energy Action Group; participation in DOD's Studies, Analysis and Gaming Agency's (SAGA) FUELEX energy crisis simulation; Memorandum of Agreement (MOA) with DOC delineating DOE/DOC responsibilities for fuel/petrochemical supply under DPA; and participation on NATO National Oil Board Task Group.

PRODUCTS/ESTIMATED COMPLETION DATE

As required.

ISSUES AND/OR PROBLEMS

FEMA has constituted an interagency task group on DPA amendments which has received a new mandate to produce a report by April 20, 1982. We are responding to this and GC has drafted proposed legislative changes and OEP has indicated areas that might be reviewed. These suggestions were reviewed with Ron Winkler on April 8, 1982, and will be informally reviewed with FEMA staff on April 12, 1982, prior to submission of a formal DOE position.

Updating DOT's Claimancy Program is awaiting the outcome of the primary projects being pursued with the DOD.

The Defense Energy Action Group was formed after the recent FUELEX-81 exercise to investigate and recommend action warranted in response to several problems which came to light during the exercise. For the most part, there are internal to DOD, but some of them concern energy use and requirements, and DOE is participating on this basis.

TEST/EXERCISES: FUELEX

DESCRIPTION

The Studies, Analysis, and Gaming Agency (SAGA) prepares and conducts major political-military energy crisis simulations known as FUELEX, in which DOE, represented by the Office of Energy Emergencies, participates. The purpose of FUELEX is to provide the Department of Defense (DOD) and the civilian (both Government and private) energy community with an understanding of probable defense fuel requirements during an emergency and to have the joint military and civilian teams work within current regulatory, legislative, and policy guidelines to resolve any problems.

PRODUCTS/ESTIMATED COMPLETION DATE

FUELEX-81 was held during the week of November 16-21, 1981. Out of this exercise came many proposals to improve energy crisis management, within DOD as well as other Government agencies. The Defense Energy Action Group, organized within the DOD Office of Defense Energy, was established to investigate and carry out those proposals. This office has representation on that group, and is prepared to provide written input as requested.

ISSUES AND/OR PROBLEMS

None.

REX-82 TESTS

DESCRIPTION

REX-82 consists of two one-week exercises subtitled ALPHA and BRAVO. ALPHA exercises usually involve a general war scenario during and around the period of an immediate attack. Participation is at the Special Facility of the Federal Emergency Management Agency (FEMA). BRAVO usually involves industrial mobilization considerably before a war and is played at regular duty stations. These exercises are part of a biennial series conducted by FEMA among the Federal Civil Agencies in conjunction with Joint Chiefs of Staff Command post exercises.

The objectives of these exercises are to improve plans and preparedness for Continuity of Government (COG) and civil mobilization.

PRODUCTS/ESTIMATED COMPLETION DATE

These exercises provide the opportunity for participation by responsible staff. Suggestions for improved energy crisis management also emerge. There are several reports prepared for the exercises, including exercise, control and evaluation plans and after-action reports. The after-action report on ALPHA, which took place March 1-5 this year, will be completed in April. Dates for BRAVO have not yet been determined and will be classified.

ISSUES AND/OR PROBLEMS

None.

MOBILIZATION RESPONSE STUDY: ECONOMIC EFFECTS

The purpose of the mobilization response study is to determine whether a given level of military activity is feasible from an energy resource perspective. This analysis would be similar to a military assessment of the Nation's ability to fight and defeat a given opponent. The study will also try to estimate the proportion of available energy which realistically should be allocated to defense activities in war time. Included in this planning effort is an attempt to distinguish between normal and wartime demands for energy and to identify tradeoff alternatives which may be appropriate under energy supply constraints.

The study focuses on the problem of determining the difficulty of satisfying military requirements during a general war -- whatever resources are provided, more is likely to be demanded in order to win the war sooner. An uncontrolled undirected effort to meet military requirements by shifting energy from civilian to defense functions very possibly could result in an inefficient distribution of energy resources. In the long run, such a situation could adversely affect the Nation's industrial capability for waging general war. Any allocation of resources must be correct and precise to maintain the military forces and the strongest possible industrial base. Therefore, resource planning must be done in a careful and well thought out manner in order to avoid compromising the Nation's basic industrial capacity.

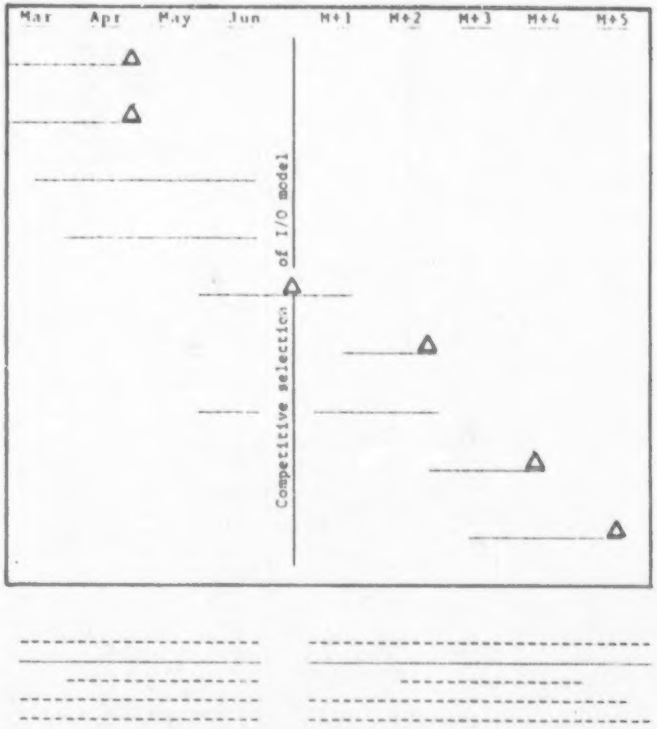
The mobilization response study also provides a national context within which to assess the appropriate level of Defense Production Act (DPA) activities and the importance of possible sabotage threats to utilities. Our long range objective is to relate this project to the regional modeling work conducted by Oak Ridge National Laboratory and thereby link national mobilization impacts to a more regional level of detail.

It has been generally assumed that the gap between supply and demand would be met by a petroleum stockpile (SPR); supply would meet demand. But, what would happen to defense needs and the civilian economy if in the long run some lesser quantity of petroleum were available? Suppose supply does not meet demand at a given price? The evaluation process to analyze the petroleum needs of the defense industrial base involves the development of scenarios for planning civilian support of the military during a national mobilization. These scenarios will examine various levels of mobilization from partial to full to total mobilization. For each scenario, policy options that are available to the government will be analyzed considering the various levels of available petroleum. Policy implications will be presented in a report approximately five months following competitive selection of an Input/Output model.

MOBILIZATION RESPONSE WORKPLAN
Project leader: Bill Davis

Task:

1. **Introduction:** Describes the purpose and objective of the project (Ch 1)..
2. **Methodology:** Develop approach for estimating petroleum demand and industrial output in support of military (Ch 2)................
3. **Scenarios:** Develop military demands and assumptions during a national mobilization (Ch 3)....................................
4. **Policies:** Identify options available to the government given various levels of petroleum availability (Ch 3)....................
5. **Model:** Select analytical tool to evaluate levels of industrial output in an economy to satisfy total demand for a product.........
6. Develop computer modeling capability, bring-up and test system...
7. **Criteria:** Establish evaluation criteria to compare scenarios and policy options (Ch 4)..
8. **Simulations:** Conduct simulations of scenarios, evaluating policies available to the government (Ch 4).........................
9. **Report:** Present policy implications by evaluating petroleum requirements of the defense industrial base during a national mobilization (Ch 5)...



Manning:

Coplon	0.20 ....
Davis	1.00 ....
Gainor	0.25 ....
Mohr	0.50 ....
Wang	0.10 ....

Full time: ——
Part time: ---
Deliverable: △

ECONOMETRIC MODELING
REGIONAL CAPABILITIES FOR DEALING WITH SHORTAGES

DESCRIPTION

The DOE has commissioned a study, being conducted by the Oak Ridge National Laboratory, to develop a system specification for a regional forecasting/impact assessment model which is tailored to the programmatic responsibilities of Emergency Planning. The study is near completion and the final report is expected by the end of April.

INTRODUCTION

Of the variety of energy related impacts sustained by the U.S. economy during the past decade, changes from disruptions of crude oil supplies may have been the most significant. Impacts of future disruptions will depend upon the abilities of domestic producers and consumers of oil and oil products to substitute other commodities for the curtailed energy products and to sustain the rapid price increases which will occur as energy markets attempt adjustment. The ability of energy consumers to respond may be determined by a variety of region-specific constraints that are not generally incorporated in traditional macro-regional economic modeling procedures.

Severe energy curtailments may threaten the ability of state and local governments to provide adequate emergency services. Prolonged curtailments, with consequent price rises, produce indirect effects through revenue losses to state and local governments. Public expenditures may increase due to increased energy prices and increased demands on social service programs. The private sector may be subjected to similar indirect pressures as well. The loss of real income and the induced substitution actions by consumers may cause rapid downward shifts in the demand for energy intensive commodities. Regions which produce these products will be particularly hard hit because as products demands decrease, layoffs and slowdowns will send ripple effects throughout the regional systems, causing second round impacts in other industries. Ultimately, the economic burden will be much harder on some industries and regions than others.

ISSUES AND/OR PROBLEMS

The first impact of regional oil curtailments will be transmitted through the petroleum refining and distribution system. The study will survey the existing refining and distribution models to investigate the feasibility of incorporating such models into a comprehensive impact assessment model. Although this task will specifically consider only the refining sector, many of the suggestions will be generalized to apply to other fuel distribution models, e.g., coal and electricity.

Differences in regional composition of economic activity and short-run possibilities for fuel substitutability will affect each regions response to a constraint in petroleum products supply. Additionally, the short-run adjustment of output and employment due to energy curtailments may vary substantially by region. The study will survey the possible approaches to estimate short-term energy demand impacts of petroleum product curtailments with severely rising energy prices.

The final task will summarize the results of the earlier tasks and formulate a development strategy to acquire an analysis capability to meet DOE/EP programmatic requirements. The use of existing models and techniques will be considered the most expedient approach to initially provide a response capability. A development strategy will be outlined with which the full range of capabilities can be provided in an orderly and efficient manner.

Project objectives and approach will be adjusted as necessary after careful review and evaluation of the final report to be submitted by Oak Ridge.

ECONOMIC EFFECTS OF SUPPY DISRUPTIONS

DESCRIPTION

A substantial disruption in the supply of petroleum can be expected to cause large, rapid increases in petroleum prices. These price increases have the potential for generating both severe adverse macroeconomic impacts and cases of individual hardship, in the short term, before adequate adjustments are made. In such circumstances, it may be appropriate for the Government to act to provide a macroeconomic stimulus and/or to alleviate undue hardship. This project will examine alternative Federal programs and estimate their effectiveness in providing an economic stimulus and/or reducing perceived hardship.

PRODUCTS/ESTIMATED COMPLETION DATE

- Literature Search -- May 1, 1982
- Interagency Task Force -- May 15, 1982
- Models/Scenarios -- June 1, 1982
- Equity Analysis -- August 1, 1982
- Efficiency Analysis -- August 1, 1982
- Policy Conclusions/Report -- November 1, 1982
- Mechanisms Analysis -- February 1, 1983
- Option Papers -- March 1, 1983

ISSUES AND/OR PROBLEMS

(1) What is the likely magnitude of the adverse macroeconomic effects of an oil supply disruption?

(2) Under current tax legislation, what is the net effect of a disruption on Federal revenues and outlays?

(3) What is the nature of the income redistribution likely to result from a disruption?

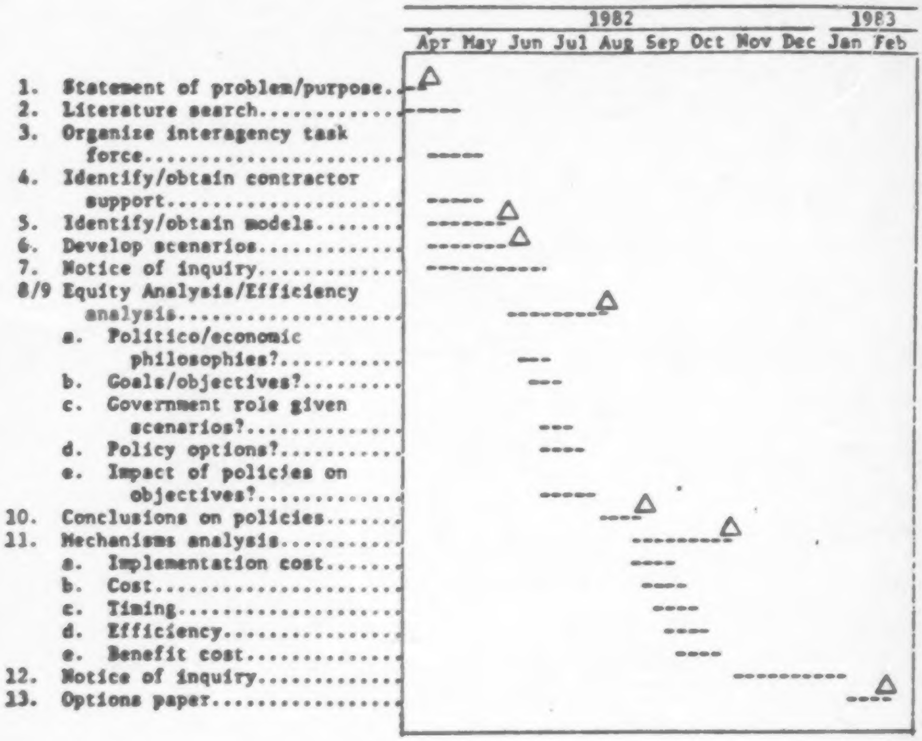
(4) To what extent will severe hardship, as perceived by the American public, be experienced?

(5) What are the options available for providing an economic stimulus, and how effective is each?

(6) What measures are available for addressing individual hardship, and how effective is each?

(7) What should be the respective roles of the Federal, State, and local Governments in designing and administering programs to address hardship?

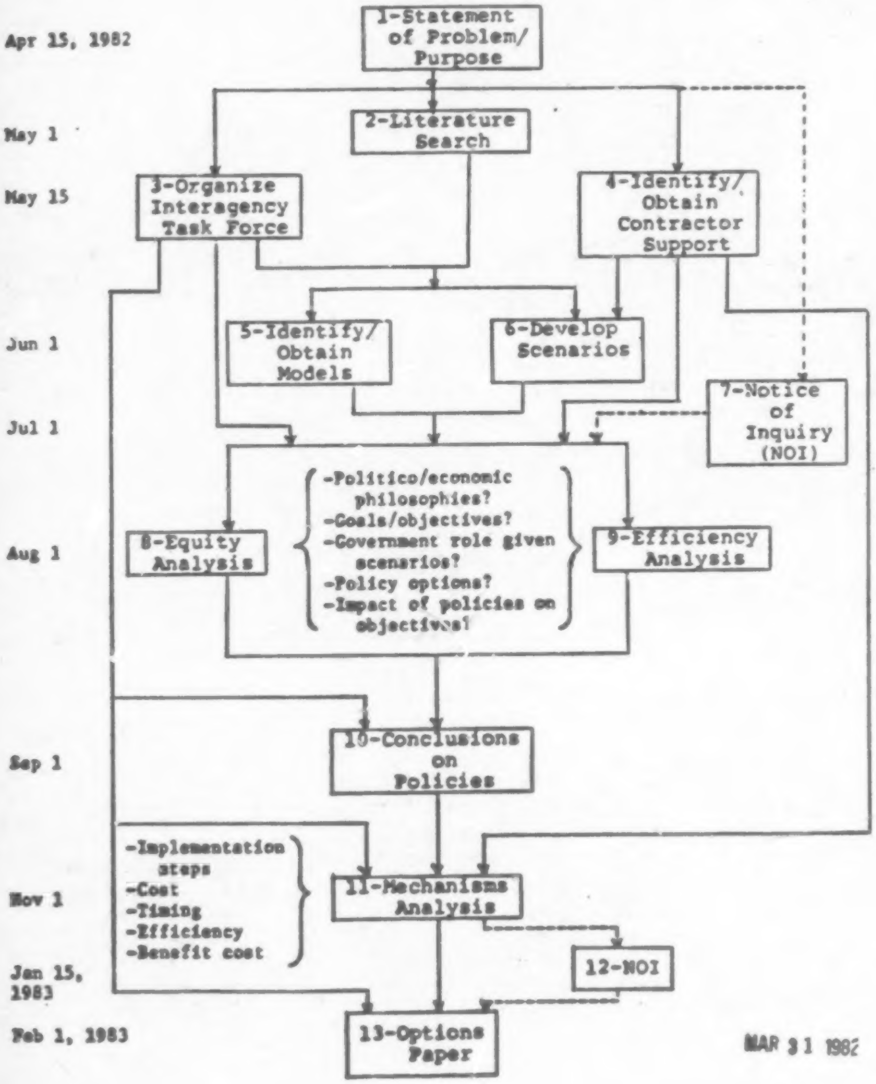
ANALYSIS OF EFFECT AND RESPONSES TO OIL DISRUPTION



1. Statement of problem/purpose.
2. Literature search
3. Organize interagency task force
4. Identify/obtain contractor support
5. Identify/obtain models
6. Develop scenarios
7. Notice of inquiry
8/9 Equity Analysis/Efficiency analysis
    - a. Politico/economic philosophies?
    - b. Goals/objectives?
    - c. Government role given scenarios?
    - d. Policy options?
    - e. Impact of policies on objectives?
10. Conclusions on policies
11. Mechanisms analysis
    - a. Implementation cost
    - b. Cost
    - c. Timing
    - d. Efficiency
    - e. Benefit cost
12. Notice of inquiry
13. Options paper

MAR 31 1982

ANALYSIS OF EFFECTS AND RESPONSES TO OIL DISRUPTION


Apr 15, 1982
1-Statement of Problem/ Purpose
May 1
2-Literature Search
May 15
3-Organize Interagency Task Force
4-Identify/ Obtain Contractor Support
Jun 1
5-Identify/ Obtain Models
6-Develop Scenarios
Jul 1
7-Notice of Inquiry (NOI)
Aug 1
8-Equity Analysis
-Politico/economic philosophies?
-Goals/objectives?
-Government role given scenarios?
-Policy options?
-Impact of policies on objectives?
9-Efficiency Analysis
Sep 1
10-Conclusions on Policies
-Implementation steps
-Cost
-Timing
-Efficiency
-Benefit cost
Nov 1
11-Mechanisms Analysis
Jan 15, 1983
12-NOI
Feb 1, 1983
13-Options Paper

MAR 31 1982

MANAGEMENT OPERATING PROCEDURES

DESCRIPTION

The Plans Development and Testing Division and the National Security and Continuity of Government Branch are coordinating the development of standard operating procedures and suitable operation facilities for EP and DOE management of energy emergencies. There are two aspects to this project: codification of the operating procedures of DOE and external entities (Federal, State, local, and private sector) in the management of energy emergencies; and the design, development, and installation of operations support systems (equipment, communications, and space) to assist the managers in their decision-making during energy emergencies. Internal EE procedures will be developed first. Then a DOE task force will be established under EE direction to codify the department-wide procedures for all types of fuel-related energy emergencies. The final product will be the establishment of operating facilities and a handbook of standard operating procedures.

PRODUCTS/ESTIMATED COMPLETION DATES

- Interim procedures/operations support systems description for EE in a generalized energy emergency. (May 21, 1982)
- DOE-wide task force established to codify departmental responsibilities and procedures for energy emergency management. (June 11, 1982)
- Support system specifications/paperwork completed. Reference file compilation initiated. Space for support staff identified. (June 11, 1982)
- Duty desks in Room GA-257 becomes operational with minimum equipment. (June 30, 1982)
- Handbook of procedures submitted for department-wide clearance. (September 17, 1982)
- Final handbook containing a complete set of DOE-wide procedures and instructions on the use of all support systems for DOE management of energy emergencies. (October 22, 1982)

ISSUES AND/OR PROBLEMS

- In order for this effort to be successful and for the resulting procedures to reflect accurately the management operation of the department in an energy emergency, the task force will have to consist of individuals who are cognizant of their organizations' roles in an emergency and who have the highest level support of their management in this effort.
- Acquisition of additional space in the Forrestal Building could be a problem.

DEPUTY ASSISTANT SECRETARY
ENERGY EMERGENCIES

ACTIVITY SUMMARIES

OFFICE OF
ENERGY EMERGENCY OPERATIONS

Ronald L. Winkler
Deputy Assistant Secretary
Energy Emergencies

Richard E. Weiner
Acting Office Director
Energy Emergency Operations

April 12, 1982

OFFICE OF ENERGY EMERGENCIES
OFFICE OF ENERGY EMERGENCY OPERATIONS

ACTIVITY SUMMARIES

VULNERABILITY PROJECTS

Electric Power Vulnerability Assessment 1
Pipeline Vulnerability Assessment 2

PRESIDENTIAL PERMIT ACTIVITIES 3

RISK ASSESSMENT

Energy Emergency Impact Assessments 4
Petroleum Inventory Analysis 5

ENERGY DATA ANALYSIS

Energy Situation Reporting System 6

OPERATIONS AND IMPLEMENTATION

Emergency Reserve Programs 7
Continuity of Government Program 8

EMERGENCY MOBILIZATION PREPAREDNESS BOARD 9

INFORMATION EXCHANGES

Communications for Energy Emergencies 10
State and Local Government and Industrial Liaison Program 11

SECURITY

Energy Aspects of National Security 12
Security Program for Energy Emergencies 13

EMERGENCY OPERATIONS 14

Electric Power Vulnerability Assessment

Description: Assessment of the potential for disruption of the supply of electric power to military bases and defense industrial facilities by sabotage against the commercial electric power systems. Includes a series of case studies of selected defense facilities, with analyses of (i) the impact of power outages of various lengths on military effectiveness during mobilization or war, and (ii) the likely duration of outages resulting from various types of coordinated acts of sabotage against the power system. Also includes investigation of related issues such as intelligence estimates of threat, institutional responsibilities, state-of-the-art sabotage techniques, and replacement times for critical system components.

Products:

(1) Classified individual case study reports on 5 Air Force Logistics command bases and utilities serving them. (Complete by August 82)
(2) Classified reports on other military base case studies. (Complete September 82)
(3) Classified reports on four related issues named above. (Complete November 82)
(4) Classified report on complex of critical industrial facilities in Los Angeles area. (Complete October 82)
(5) Summary report (classified and unclassified versions).

Issues:

(1) Determining what level of risk is acceptable.
(2) Identifying the most cost-effective options for reducing risks where currently unacceptable.
(3) Assigning responsibility for implementing risk reduction measures to appropriate Federal agency or to other parties.
(4) Obtaining resources to implement mitigation measures.
(5) Resolving responsibilities for dealing with sabotage incidents and consequences, should they occur.

Pipeline Vulnerability Assessment

Description: Assessment of the vulnerability of petroleum and natural gas pipelines to concerted sabotage attacks. The attacks may occur in time of peace or war or during the critical period immediately prior to declaration of war.

The purposes of the study are: (a) to determine how vulnerable our oil and gas pipelines are to sabotage attacks, (b) to evaluate the probable effects of successful attacks upon the nation's supplies of oil and gas, (c) to assess the probable effects upon the national security and the nation's economy and (d) to suggest methods for reducing the nation's vulnerability.

Products: A final report is scheduled to be completed by August 1983. Interim reports on special aspects of the problem will be issued from time to time as the work progresses.

Issues: Vulnerability Analysis: We have discussed sabotage of pipelines with approximately 80 individuals from the pipeline companies, trade associations, and various departments in the Federal Government and state governments. Attacks would have serious adverse effects upon oil and gas supplies but quantitative data is not available.

Development of such data requires the full cooperation of industry. In order that the pipeline companies will want to cooperate with us in performing the study (and to take appropriate actions to reduce the vulnerability) it is necessary that they be convinced that the threat of sabotage is real.

Response Plans:

The absence of the motivating intelligence information identified above is partially responsible for the delay in the development of response plans. Another factor of perhaps even greater importance is that uncertainty exists as to what organization has the legal responsibility to prepare and implement these plans.

For example some pipeline companies are looking to the Department of Defense for protection against sabotage attack while others look to the FBI. Neither of these agencies, however, believes it has this responsibility in peacetime.

Presidential Permit Activities

Description: An electrical transmission line which will cross US-international borders must receive a Permit (Presidential Permit) from this office prior to construction and operation. Additionally, if the intention is to export electricity over this line, the applicant must also obtain what is known as an Export Authorization. To date approximately 70 Presidential Permits have been authorized. DOE's issuance of the Permit is based upon "public interest" considerations including:

1. Environmental Impact
2. Electrical Grid System Impact
3. National Security Implications
4. International Trade Policies

Products: There are 5 Permit applications presently being reviewed. There are 2 Permit Amendments presently being reviewed. A Permit can take between 6 months and 2 years to process. An Amendment can take between 1 month and 2 years to process.

Issues: Environmental Impact - Acid Rain Question, et al
Electrical Grid System Impact - affect on the reliability and stability of an electrical grid system.
National Security Implication Potential Impact of cut-off. Safe level of import. Dependency questions.
International Trade - Energy Trade Policies with Canada and Mexico.
Political sensitivity of major transmission line construction.

Energy Emergency Impact Assessments

Description: Analyzing available information and obtaining additional information necessary to determine the likelihood and potential impacts of energy emergencies related to electric power, petroleum, natural gas and solid fuels.

Products: Assessment reports, monitoring reports and recommendations for mitigating the impacts of emergencies.

Issues: Obtaining current and relevant information on which a worthwhile analysis can be based with as little burden as possible on industries.

Petroleum Inventory Analysis

Description: Responsible for assessment of the risk to supplies of crude oil and petroleum products, quantifying the preliminary impact of the petroleum shortage and recommending the appropriate action to mitigate such a shortfall. Conduct ongoing assessments of the adequacy of petroleum inventories, both crude and refined products, to meet projected demands. The purpose of these inventory assessments are to anticipate and apprise management of potential problem areas or trends which may adversely affect the marketplace.

Products:
(1) Supply/demand assessment reports
(2) Inventory status reports
(3) Recommendations to avoid potentially adverse inventory trends.

Issues and/or Problems:

(1) Increasing the rate of SPR buildup to offset declining private industry stock levels.
(2) Possible federal leasing of above ground or tanker storage of crude oil.
(3) Obtaining current inventory data.

Energy Situation Reporting System (ESRS)

Description

The Energy Situation Reporting System has two basic elements, the Energy Situation Report, and a supporting data base, called "Tables". The Energy Situation Report is a daily publication. It includes highlights of recent events affecting U.S. energy supply availability, data on energy supply and demand, and items which may develop into problems in the near future.

The report is divided into two major sections: (1) Highlights and Early Warning Items, and (2) Background Information. The latter section includes separate subsections with current general information on crude oil and petroleum products, natural gas, coal and other solid fuels, electric power, weather trends and forecasts, and special topics as noted in individual items in the Highlights and Early Warning section.

Additional background data is available on the "Tables" system, which has been derived from governmental and non-governmental data sources.

Products

The daily publication of the Energy Situation Report, and the availability of the "Tables" system, are the current products of this activity.

Issues

The Energy Situation Reporting System is still in the developmental state. Improvements are being made to the format of the daily report, and an exercise is underway to enhance the system by giving it improved analytical capabilities. The issue here is whether there is sufficient staff available to give the analytical enhancement effort the priority it deserves. Those who are currently assigned to the Enhancement Task Force have other responsibilities which are restricting their time for intensive involvement in the task.

EMERGENCY RESERVE PROGRAMS

OPERATIONS AND IMPLEMENTATION

DESCRIPTION: The Emergency Reserve Programs include three separate, but interrelated National Defense Executive Reserve units:

- -- Emergency Electric Power Administration (EEPA)
- -- Emergency Petroleum and Gas Administration (EPGA)
- -- Emergency Solid Fuels Administration (ESFA)

These executive reserve units, authorized under the Defense Production Act of 1950 (DPA), are intended to monitor and, if necessary, direct the operations of the electric power, petroleum and gas, and solid fuels (coal/coke) industries in the event of conventional or nuclear war, or in response to significant threats to the Nation's security. The role of DOE is to insure that these units are prepared by instituting and maintaining suitable recruitment, training and administrative programs. From 1977 (when the units were transferred to DOE from the Department of the Interior) until recently, these units were dormant. The major mission in FY 1982 and FY 1983 is to revitalize them and bring each to a state of adequate preparedness.

PRODUCTS: It is anticipated that during FY 1982 and FY 1983 the following major events or activities will be accomplished or undertaken--

- -- Conduct a series of workshops to examine and resolve key issues
- -- Complete the reorganization and restaffing of EEPA, EPGA & ESFA
- -- Revise and distribute operating handbooks for each reserve unit
- -- Conduct initial training of reservists at the regional level
- -- Conduct individual unit and joint field exercises

ISSUES AND PROBLEMS:

1. The paramount issue is whether reserve units may be employed in situations other than those strictly defined by DPA, e.g., could the EPGA reserve unit be wholly or partially mobilized (or otherwise employed) in the event of a serious oil embargo? As a consequence of a natural disaster?

2. Other significant issues surround the responsibilities and liaibilities of reservists with regard to conflict of interest, financial disclosure, and antitrust provisions of federal statutes and regulations.

CONTINUITY OF GOVERNMENT (COG) PROGRAM

OPERATIONS AND IMPLEMENTATION

DESCRIPTION

The Continuity of Government Program is a government-wide program with the purpose of assuring essential Federal government activities during and after an attack on the United States or other National emergencies. This program is directed by the National Security Council (NSC) and is coordinated by the Federal Emergency Management Agency (FEMA), however the responsibility for its planning and implementation rests with the Federal departments and agencies.

This program includes the development and maintenance of a detailed agency COG plan, the formation and maintenance of special emergency teams at headquarters and regional levels; the use of Executive Reservists; development of emergency communications and arrangement for executive succession and delegations of authority.

The major mission in FY 82 and 83 is to continue to develop the COG plans and structure in accordance with the new COG concepts (classified) as issued by the President.

PRODUCTS

It is anticipated that during FY 82 and 83 the following major events or activities will be accomplished or initiated.

-- DOE COG Program Requirements Analysis in relation to new concepts.

-- Development of a comprehensive Departmental COG Directive.

-- Development of a Headquarters and regional COG coordination network.

-- Development of National level COG Plan to include a training program.

-- Development of Regional COG Plans to include training programs.

OUTSTANDING ISSUES

-- Development of Specific COG control and reporting relationships for the DOE regional operations offices and the the Office of Energy Emergencies with the States and FEMA.

-- Maintenance of an effective Department wide program in light of reorganization and budgetary realignments.

Emergency Mobilization Preparedness Board

Description:

The Emergency Mobilization Preparedenss Board (EMPB) was established by The President on December 17, 1981, with the following instruction:

> The Board is to prepare for my review a draft Presidential Decision Document to include a statement of national policy on emergency mobilization preparedness and a plan of action consistent with this policy.

This Board is chaired by the National Security Advisor.

Twelve working groups have been established, with the Department represented on nine. The Under Secretary is the Department's representative on the Board and Deputy Assistant Secretaries or Office Directors are the Department representatives on the working groups. Also, the Department is represented on several task groups under the various working groups. The Department has also established an EMPB Coordinator to support this effort.

Products:

It is anticipated that during FY 82 and 83, the following major activities will be initiated and/or accomplished:

-- Complete working group policy statements inputs;

-- Coordinate Departmental review of the Presidential Decision Document; and

-- Assist the development of a fully coordinated Department implementation plan for the emergency preparedness consistent with the Presidential Decision Document.

Issues/Problems:

-- Maintenance of the Executive level of involvement in the implementation of any EMPB directed emergency preparedness activities;

-- Establishment of a concise, accurate and maintainable base of essential energy information. Classified data files maintenance is a critical item;

-- Support for the significant staff involvement that had not been included in any anticipatory budget. FEMA expects each agency to financially support its EMPB obligations.

COMMUNICATIONS FOR ENERGY EMERGENCIES
To Support Effective Information Exchanges

Description:

Effective response to an energy emergency requires extensive information and data exchanges through rapid telecommunication channels among the pertinent energy supply organizations, the affected states, FEMA Regional Centers and the DOE Regional Management Offices. State Energy Offices and State Disaster Control Centers or Emergency Operations Centers serve as the point of state contact. Currently, communications among these parties is limited to the telephone and an electronic mail system that currently connects most of the State Energy Offices to the Office of Energy Emergency Operations. The intergration and enhancement of the existing communication systems and the addition of both some links and equipment are necessary to assure that timely and effective two-way communication of information. Funds for annual maintenance charges are necessary such that any telephone or other equipment is properly maintained. It is the intention of this activity to assure the most complete use of the existing DOE communciations systems and the FEMA regional emergency communications links.

Products:

It is anticipated that during FY 82 and 83 the following major events or activities will be initiated and/or accomplished.

-- Extend telecommunications links to all State Energy Offices and the Emergency Operations Centers or Disaster Control Centers of the states.
-- Establish communications links from the DOE Regional Management Offices (operations offices) to State Energy Offices and Emergency Operations Centers in the states in the applicable region.
-- Obtain terminals and other equipment to provide a DOE Hq. access to the FEMA emergency communication systems.
-- Develop necessary enhancements to existing communication systems to facilitate information transfer including communications links between State Emergency Operations Centers and the DOE Operations Offices.
-- Develop detailed reference guides on emergency communication procedures for use by states and other parties during emergencies.
-- Evaluate the need for the State Energy Offices to receive any classified national security information and the costs of such a program to include security clearances, secure data links and the storage of this information.

Issues/Problems:

-- Resolution of DOE Operations Offices' role in regard to relationships with states and the FEMA Regional Offices during energy emergencies planning and emergency response periods.
-- Limitations on staffing to implement this activity.
-- Assuring the reliability of the communication systems.

STATE AND LOCAL GOVERNMENT AND INDUSTRIAL LIAISON PROGRAM

Description:

The liaison program provides a focal point within the Office of Energy Emergencies (EE) for establishing and maintaining coordination with state and local governments, other Federal agencies and key segments of the private sector on energy emergency programs. It also provides a forum for continuing dialogue with diverse groups on key issues, fosters cooperation and consistency in planning at all levels, facilitates information transfer between groups and promotes private and public sector involvement in Federal energy emergency planning activities.

This program initiates and implements outreach programs, expands and maintains communication networks for timely information exchange, evaluates the impacts of DOE programs on outside groups by inviting participation on in-house task forces, and maintains directories of federal and non-federal officials with energy emergency responsibilities.

Products:

During FY 82 and 83 the following major events or activities will be accomplished or undertaken.

- Conduct a series of workshops involving industry, state, local, and consumer representatives on a wide range of energy emergency issues
- Conduct periodic roundtable discussions with public interest groups
- Foster development of a prototype coordinating council system among state and local governments within a given geographical area, such as a Petroleum Allocation for Defense District (PADD)
- Disseminate reports and other information on energy emergency preparedness policy, programs, etc., to program constituents
- Carry out a series of informal, interactive meetings between EE officials and industrial associations and representatives to encourage private sector initiatives and feedback on Federal options under consideration
- Expand current communication links between DOE, states, and other emergency managers
- Update and expand energy emergency contacts directories to include key officials for state government, Federal agencies and industry by energy sector.

Issues/Problems:

- Maintaining a high level of interest in energy emergency issues in a non-emergency environment.
- Due to staffing and budget constraints at the Federal, state, and local levels, maintaining on-going coordination efforts and wide-range participation without contract funding assistance.
- Developing industry contacts directory in a timely manner without contractor support.

ENERGY ASPECTS OF NATIONAL SECURITY

DESCRIPTION

This program addresses the many cross cutting and linking activities that are essential elements of the National Security Program. Most important are the continous communications with Intelligence Agencies, and active liaison with the Federal Emergency Management Agency. Nearly every aspect of this program is highly classified, therefore details cannot be included in this program statement.

This program includes detailed analyses of the energy aspects of various National Security Plans and the preparation and coordination of Department responses. Designated individuals peruse routinely certain intelligence documents to ascertain the possible impacts of world events on the energy supply situation. Preparation of briefings and energy situation analytical documents are integral to this activity. Liaison is maintained with the Department of Defense in the communications area to assure compatibility of communication systems for the nation s defense with those required for resolution of energy emergency situations.

PRODUCTS

It is anticipated that during FY 82 and 83 the following major events or activities will be accomplished or initiated:

-- Timely and complete responses to FEMA, DOD and National Security Council resulting from reviews of emergency plans and other similar documents.

-- Enhanced liaison with all elements of FEMA regarding National Security activities and other emergency preparedness functions.

-- Continuing systematic review and analysis of energy intelligence documents and the development of executive briefings as appropriate.

-- Development of policy positions regarding the resolution of conflicting requirements as between DOD communication systems and those employed by the private and public energy supply organizations.

-- Continued coordination with DOE communication experts in developing Departmental inputs to the power line carrier proceedings of the Federal Communications Commission.

ISSUES/PROBLEMS

-- Acquisition and maintenance of the required number of high level security clearances.

-- The limited physical areas in the Forrestal Building certified for highly classified discussions.

SECURITY PROGRAM FOR ENERGY EMERGENCIES

DESCRIPTION

The operation of a centralized security program for both staff operations and the emergency programs is crucial for effective response by the Office of Energy Emergencies to national energy emergencies. This program encompasses personnel security, control of classified documents, required physical security operations, security procedures for electronic equipment, procedures for handling security violations, derivative and original document classification responsibilities and the formal visit/access program for staff members visiting other agencies or vice versa. Additionally, coordination is provided for certain special clearance access procedures such as SCI, NATO, COSMIC.

PRODUCTS

During FY 82 and 83 it is anticipated that the following events or activities will be initiated and/or accomplished:

-- Operation of a formal OEE Headquarters TOP SECRET Control System for the Office of Energy Emergencies.

-- Maintenace of Classified Document Control System for the Office of Energy Emergencies.

-- Development and maintenance of OEE security policy guides and plans.

-- Maintenance of control systems for classified document courier authorization and other special emergency identification badges.

-- Development of an OEE central classified reference system for DOE essential prepositioned records for the continuity of government relocation sites.

-- Maintenance of computer data files for the security program to facilitate quick reaction capability in the headquarters with printouts at the relocation sites.

ISSUES/PROBLEMS

EMERGENCY OPERATIONS

DESCRIPTION

This program addresses the many preparedness actions required for effective response to energy emergencies and the emergency response (operations) activities during actual emergencies. The most important continuing activity of this program is the identification and training of personnel assigned to energy emergency operations teams.

Included in this program is the receipt, docketing and processing of application for emergency electric power interconnection, power delivery and/or generation under Section 202(c) and 202(d) of the Federal Power Act. Such applications must be analyzed and decisions recommended in an expeditious manner.

The development, maintenance and 24-hour-a-day operation of an Alert Coordination Officer System, so as to assure the ability to receive emergency alerts at all hours is an integral element of this program. The determination, acquisition and maintenance of the needed reference documents for emergency operations is a continuing functional activity of this program. In addition, the establishment and maintenance of an Energy Emergency Operations Center is a function of this program.

PRODUCTS

It is anticipated that during FY 82 and FY 83 the following major events or activities will be accomplished or initiated:

-- Preparation of a Federal Register Notice and other appropriate public information material announcing the Department's Energy Emergency reporting number.

-- Identification and designation of emergency operating team cadres.

-- Continous maintenance of and the addition of appropriate new materials and facilities to the Alert Coordination Officer System.

-- The development and acquisition of needed reference documents for energy emergencies response actions.

-- The establishment and maintenance of an Energy Emergencies Operations Center Facility in the Forrestal Building.

-- The development of Standard Operating Procedures for transition from normal to emergency operations and for the conduct of emergency operations.

-- The development of an energy emergencies reporting manual.

-- The development and maintenance of an ongoing training program for personnel assigned to emergency response cadres.

ISSUES/PROBLEMS

Mission and Functions

Emergency Executive Reserves

Mission

The Department of Energy (DOE) emergency executive reserve units, authorized by the Defense Production Act of 1950, as amended, serve as standby organizations to help meet the nation's needs for oil, gas, solid fuels and electric power in the event of limited or general war, threats to national security, or other Presidentially-declared emergencies.

Functions

During an emergency, as defined herein, the units assist, coordinate, and when necessary, participate in the direction of certain essential activities of their industries to assure domestic and foreign supplies of energy to meet essential military and civilian needs. All of these functions must be understood to be in the context of a declared national defense emergency, for which purpose the reserve program was originally created. Functions include:

-- Formulating, coordinating and implementing energy supply programs;

-- Representing the energy supply industries before other federal agencies to obtain such critical resources as labor, materiel, transportation, communications, and funds needed for vital activities;

-- Helping to allocate and distribute energy resources [illegible]

-- Maintaining communications with the oil, gas, solid fuels, and electric power industries, energy consumers, and government agencies, as necessary to perform the above functions and to assist DOE in assessing the scope and magnitude of a fuel emergency.

Activation

The units may be activated under any of the following conditions: limited or general war, international tension characterized by a serious threat to national security, and other Presidentially-declared emergencies.

April 21, 1982

FEDERAL EMERGENCY
MANAGEMENT AGENCY

News

Office of Public Affairs / Washington, D.C. 20472

For additional information: Release No.: 82-28

Paul Girolami
(202) 287-0300

Release Date:
Wednesday, March 31, 1982

FEMA SEEKS CANDIDATES FOR
NATIONAL DEFENSE EXECUTIVE RESERVE PROGRAM

WASHINGTON — The Federal Emergency Management Agency (FEMA) is seeking experienced civilian executives to serve in key federal government positions during national emergencies.

The National Defense Executive Reserve (NDER) program , currently administered by FEMA, recruits candidates on the basis of their managerial, professional and technical skills to augment federal agency staffs in emergencies.

The NDER program is designed to offer candidates specialized training and knowledge of government programs, priorities and personnel, as well as establishing contacts in their own industry and related areas.

[illegible] Washington, D.C. [illegible]

-30-

NOTE TO EDITORS:

Attached for your use is a fact sheet on the National Defense Executive Reserve Program.

FEDERAL EMERGENCY
MANAGEMENT AGENCY

News

Office of Public Affairs / Washington, DC 20472

FACT SHEET

THE NATIONAL DEFENSE EXECUTIVE RESERVE PROGRAM

The National Defense Executive Reserve (NDER) program recruits and trains experienced civilian executives to serve in key government positions during periods of national emergency. Reservists augment the staffs of federal departments and agencies when organizations must rapidly mobilize to respond to a peacetime or wartime emergency.

The NDER program was established in a 1955 amendment to the Defense Production Act of 1950. The program is currently administered by Federal Emergency Management Agency (FEMA) Director Louis O. Giuffrida, who establishes rules and standards for the program, authorizes new units and approves reservist designations. The amendment also allows the FEMA Director to use the services of other agencies to [illegible] and develop training programs for reservists.

[illegible] for the program. Reservists are recruited on the basis of their managerial, professional and technical skills. Criteria for selection include specialized experience, demonstrated ability and eligibility for a "secret" security clearance. Designations to agencies are made for a three-year term.

--more--

National Defense Executive Reserve Program FACT SHEET
Add One

Reservists receive training in emergency authorities, procedures and policies by their sponsoring agencies and often are invited to attend conferences and participate in exercises and alerts. Annual training is usually for a few days.

Benefits of the program include specialized training and mutual understanding between the federal government and the private sector. Executives acquire knowledge of government programs, priorities and personnel, as well as establishing contacts in their own industry and related ones.

There is no statutory limit on the number of persons authorized to participate in the program, but FEMA sets ceilings for each NDER unit based on agency requests. The extent of the program depends on the emergency needs and responsibilities of the participating agencies.

Approximately 2,000 reservists are currently assigned to 17 units in nine federal agencies.

For further information, write National Defense Executive Reserve Program, Federal Emergency Management Agency, Washington, D.C. 20472, or call (202) [illegible]

-30-

March 1982

NATIONAL DEFENSE
EXECUTIVE RESERVE

1980
ANNUAL REPORT TO THE PRESIDENT

FEDERAL EMERGENCY MANAGEMENT AGENCY

FEDERAL EMERGENCY MANAGEMENT AGENCY
Office of Plans and Preparedness
Washington, D.C. 20472

The President
The White House
Washington, DC 20500

Dear Mr. President:

The National Defense Executive Reserve is a program for recruiting and training a cadre of senior executives from the private sector to enter Government service in the event of a national emergency. It exemplifies the potential for cooperation between the public and private sectors in preparing for national emergencies.

Enclosed is the annual report on the status and operations of the program in Fiscal Year 1980. This report is submitted under the provisions of Section 7 of Executive Order 11179 as amended by Executive Order 12148.

We believe the National Defense Executive Reserve is a valuable resource to the Nation and intend to continue strengthening the use of this voluntary program for emergency management.

Respectfully,

Bernard T. Gallagher

Bernard T. Gallagher
Acting Director

TABLE OF CONTENTS

Page

I. SUMMARY 1

A. Purpose of Program 1

B. Fiscal Year 1980 Activities 1

C. Summary of NDER Membership 2

II. NDER UNIT ACTIVITIES 3

A. Department of Commerce - Maritime Administration 3

B. Department of Commerce - Office of Industrial Mobilization 4

C. Department of Commerce - Office of Export Administration 6

D. Department of Energy 6

E. Department of the Interior - Emergency Minerals Administration 7

F. Department of the Interior - Emergency Water Administration 8

G. Department of Labor 9

H. Department of Transportation 9

I. Interstate Commerce Commission 10

J. Federal Emergency Management Agency 11

I. SUMMARY

A. Purpose of Program

The National Defense Executive Reserve (NDER) is authorized by a 1955 amendment to the Defense Production Act. The amendment authorizes the Federal Government to recruit Executives from the private sector to fill executive positions in Federal Government agencies during a national emergency.

The Defense Production Act amendment on the Executive Reserve program is implemented by Executive Order 11179 of September 22, 1964, which:

- Gives the Director of the Federal Emergency Management Agency (FEMA) responsibility for administering and coordinating the NDER program, establishing recruitment and training standards, and issuing rules and regulations in connection with the NDER program;
- Authorizes the Director of FEMA to use the services of other agencies to update the membership records and develop training programs and materials;
- Authorizes the head of any department or agency to establish an NDER unit with the concurrence of the FEMA Director;
- Requires that designations of Reservists by agency heads be approved by the FEMA Director;
- Limits designations and redesignations to 3-year terms;
- Prohibits Reservists from functioning as advisors or acting on matters pending before any department or agency as part of their NDER activities; and
- Requires the Director of FEMA to submit an annual report to the President on the status and operations of the NDER program.

B. FY 1980 Activities

During FY 1980, FEMA undertook the following activities to continue the broad revitalization of the NDER program begun in FY 1979:

- Initiated a recruitment program to reverse the declining membership of the NDER.
- Developed plans for interagency NDER training programs to be held in each of the 10 Federal Regions each year.
- Commenced planning for a national conference of the Executive Reserve on March 11-12, 1982 in Washington, DC.
- Began to develop training materials for Executive Reservists belonging to the FEMA units.
- Continued revision of forms and policy documents for the NDER program.

Major efforts among the departments and agencies sponsoring NDER units included:

- Establishment of an NDER unit for the Emergency Water Administration of the Department of the Interior.

- Continuation of outstanding levels of recruitment and training by the Office of Industrial Mobilization in the Department of Commerce and the Office of Emergency Transportation in the Department of Transportation.

C. Summary of NDER Membership

Agency and Unit	September 30, 1980	Emeritus*
Department of the Interior		
Emergency Minerals Administration	56	0
Emergency Water Administration	0**	0
Department of Energy		
Emergency Solid Fuels Administration	0	0
Emergency Petroleum and Gas Administration	0	0
TOTAL	0***	0
Department of Commerce		
Maritime Administration	87	4
Office of Industrial Mobilization	464	77
Office of Export Administration	25	0
TOTAL	576	81
Department of Labor		
Employment Standards Administration	51	12
Department of Transportation		
Office of Emergency Transportation	388	135
Interstate Commerce Commission		
National Headquarters	1	0
Railroads	464	0
Motor Carriers	104	0
Inland Water Carriers	32	0
TOTAL	601	0
Federal Emergency Management Agency		
Economic Stabilization Agency	105	12
Office of Defense Resources	160	9
TOTAL	265	21
GRAND TOTAL	1,937	249

* Emeritus members are those who have served with distinction in the Executive Reserve but who are no longer available for emergency assignments. They are invited to training sessions so that active Reservists will be able to benefit from the knowledge and experience of Emeritus members.

** The Emergency Water Administration NDER unit was created in FY 1980. Recruitment of Reservists was begun, but designations will not be made until completion of the security process in FY 1981.

*** The Department of Energy unit has designated no Reservists since 1976. All three-year terms expired during FY 1980. The Department is now examining its emergency programs, including its requirements for additional executive talent in time of national emergency.

II. NDER UNIT ACTIVITIES

A. Department of Commerce - Maritime Administration

1. Status of NDER Program

a. The Maritime Administration (MarAd) NDER unit is an element of the Department of Commerce's NDER organization, which encompasses three units. MarAd's NDER activities are designed to support emergency ship operations, both foreign and domestic; to provide executive level staff to the NATO Defence Shipping Authority; to augment MarAd's foreign representative staffs; and to provide Federal Port Controllers.

A considerable number of Reservists now in the unit are assigned to Federal Port Controller (FPC) posts. The FPC plan has been revised to replace individual appointments by contractual arrangements with port authorities, under which the occupants of specified peacetime positions will be designated as Federal Port Controllers. As the new contracts are negotiated during 1981, many changes will be necessary in the current list of Reservists designated for Federal Port Controller duties.

NATO authorities are now in the final stages of completing the reorganization of the Defence Shipping Authority (DSA) to support revised concepts of wartime ship management and operations. Therefore, recruitment for Executive Reservists to fill vacancies in the DSA organization is being held in abeyance until U.S. commitments are finalized.

b. The status of the MarAd NDER unit at the end of FY 1980 is summarized below:

(1) Number of active members	87
(2) Number of emeritus members	4
(3) Number of female members	0
(4) Number of minority members	0
(5) Number terminated this fiscal year	0
(6) Number of new members this fiscal year	3
(7) Number of staff years devoted to this program this fiscal year	.8
(8) Salary costs of these staff years	$19,000
(9) Other costs charged to the program	0

2. Operations in FY 1980.

a. Training-none

b. Recruitment

The 1980 recruitment program was low-keyed, primarily because the details of the NATO Defence Shipping Authority organization had not been received.

3. Plans for FY 1981

a. Training

Funding support is not available for an NDER training session in 1981, but efforts will be made to incorporate some NDER training in military and civil exercises.

b. Recruitment

In the expectation that new Defense Shipping Authority organization plans will be finalized early in 1981, an aggressive program is planned for the second half of the year to realign the assignment of Reservists now in the unit and to recruit additional Reservists for newly established posts. Emergency standby recruitment will also be carried out to provide technical backup for the NDER designees.

B. Department of Commerce - Office of Industrial Mobilization

1. Status of NDER Program

a. The Office of Industrial Mobilization (OIM) NDER program continues to be one of the more active among Federal agencies. The program has the support of top Departmental and International Trade Administration officials. Its membership consists of executives from business, industry, the professions, and the academic community who are dedicated to the program and very active participants in it.

Aspects of the OIM NDER program that help assure the continued interest and support of the members include the following:

- Annual training conferences, either regional or national;
- Promoting the activities of local chapters of the NDER to augment the annual training provided by OIM;
- Dissemination of a quarterly newsletter to all OIM Reservists, informing them of current developments within OIM and the Department, industrial preparedness activities of Government, relevant Federal legislation, and other activities of interest to them; and
- Mail-outs of brochures and other information concerning courses of instruction offered by other Government agencies which will enhance the Reservists' abilities to perform their assigned duties during a national emergency situation.
- OIM's NDER recruitment program continues to include significant efforts to select women and minority executives who have record of achievement in production, distribution, and selected professions.

b. The status of the OIM NDER unit at the end of FY 1980 is summarized below:

(1) Number of active members	464
(2) Number of emeritus members	77
(3) Number of female members	20
(4) Number of minority members	15
(5) Number terminated this fiscal year	9
(6) Number of new members this fiscal year	9
(7) Number of staff years devoted to this program this fiscal year	4.75
(8) Salary costs of these staff years	$150,818
(9) Other costs charged to the program	$22,000

2. Operations in FY 1980

The OIM National Defense Executive Reserve training program for 1980 consisted of eight regional conferences.

The agenda for the program was designed to fulfill the basic responsibility to provide the training needed for effective accomplishment of emergency duties. One segment covered the peacetime planning and preparedness functions of OIM, and emphasized OIM's planned emergency organization, the Emergency Production Agency, and the roles of the Reservists who would be assigned to it. A detailed description of emergency duty assignments and emergency duty stations was also presented.

The emergency functions of the other resource agencies of Government were described, as well, with particular emphasis on their NDER units and their emergency organizational entities.

In order to familiarize Reservists with the planning activities relating to industrial support of defense requirements, each session included a briefing on the Department of Defense Industrial Planning Program. That briefing, presented by the Office of the Under Secretary of Defense for Research and Engineering, portrayed the current problems of extended lead times for Department of Defense procurement programs.

A classified presentation on the current world political situation was given by a representative of the Defense Intelligence Agency. This briefing focused on current events and, where possible, provided an analysis by DIA of the significance of these current events to National Security.

In addition, either an on-site inspection of a defense production facility or a tour of a local military base, including appropriate briefings, was provided.

These regional conferences are listed below:

April 9-11, 1980: Hampton, Virginia (Region 3)
26 Reservists attended

April 13-15, 1980: San Antonio, Texas (Regions 6 & 7)
21 Reservists attended

April 30-May 2, 1980: Jacksonville, Florida (Region 4)
33 Reservists attended

May 12-13, 1980: Boston, Massachusetts (Region 1)
17 Reservists attended

May 15-16, 1980: Harriman, New York (Region 2)
41 Reservists attended

May 21-23, 1980: Detroit, Michigan (Region 5)
32 Reservists attended

May 28-30, 1980: Seattle, Washington (Regions 8 & 10)
20 Reservists attended

June 1-3, 1980: San Diego, California (Region 9)
24 Reservists attended

The areas listed below held local meetings as follow-ups to the 1980 Regional conferences:

July 16, 1980:	Seattle, Washington 4 Reservists attended
August 8, 1980:	San Francisco, California 12 Reservists attended
September 11, 1980:	Phoenix, Arizona 5 Reservists attended

3. Plans for FY 1981

Plans for FY 1981 regional training conferences are being formulated. Initial program planning focuses on the ability of U.S. industry to surge production to meet increased defense requirements. The concepts and techniques for rapid mobilization of industry are basic to the role OIM's Reservists would have if called to duty during a national emergency.

Briefings on OIM's peacetime functions, the Emergency Production Agency, and Reservists' emergency duty assignments and duty stations will be presented again in FY 1981 for the benefit of candidates and new Reservists. These repeat sessions will be held on the day preceding the opening of the regular conference sessions.

Local follow-up meetings to the 1980 regional conferences are planned for the following areas:

October 9, 1980:	Washington, D.C. Washington Area Reservists
November 19, 1980:	New York City New York/New Jersey Reservists

An active recruitment program will continue in order to fill vacancies in the established staffing patterns and bring the unit to its authorized strength of 600.

C Department of Commerce - Office of Export Administration

The Office of Export Administration reports no FY 1980 NDER activities. In FY 1981, the office plans to recruit 25 new members. Current membership is 25 Executive Reservists.

D. Department of Energy

1. Status of NDER Program

a. The Department of Energy NDER programs for the Emergency Petroleum and Gas Administration and the Emergency Solid Fuels Administration are dormant as of the end of FY 1980.

b. The status of the Department of Energy NDER unit at the end of FY 1980 is summarized below:

(1) Number of active members	0
(2) Number of emeritus members	0
(3) Number of female members	0
(4) Number of minority members	0
(5) Number terminated this fiscal year	0
(6) Number of new members this fiscal year	0
(7) Number of staff years devoted to this program this fiscal year	1
(8) Salary costs of these staff years	$45,000
(9) Other costs charged to the program	0

2. Operations in FY 1980

Department of Energy has nothing to report on NDER activities in FY 1980.

3. Plans for FY 1981

DOE has established a new coordinated contingency planning program in the Economic Regulatory Administration. The standby Executive Reserve organizations are being reviewed as to their appropriate role, organization, and membership. DOE will take action soon to bring the EPGA and the ESFA to a renewed readiness capability in whatever format and organizational alignment is determined to be appropriate by the current study. In addition, DOE has asked the National Petroleum Council to make a study on emergency preparedness. They will also address the EPGA in their recommendations. In FY 1982, Department of Energy has planned increased emphasis on these programs and has proposed increased funding and staff.

E. Department of the Interior - Emergency Minerals Administration

1. Status of NDER Program

a. The Emergency Minerals Administration (EMA) NDER program for FY 1980 was highly successful according to comments of the Executive Reservists. They were pleased with Bureau of Mines and FEMA publications, and other materials sent to them during the year. Both of the NDER meetings held in FY 1980 were well attended for a small Executive Reserve unit. The primary weaknesses were insufficient government personnel to keep all activities functioning properly and lack of finances to pay for travel by both government personnel and Executive Reservists to participate in national and regional preparedness functions.

b. The status of the EMA NDER unit at the end of FY 1980 is summarized below:

(1) Number of active members	56
(2) Number of emeritus members	0
(3) Number of female members	0
(4) Number of minority group members	0
(5) Number terminated this fiscal year	1 (deceased)
(6) Number of new members this fiscal year	0

(7) Number of staff years devoted to this program this fiscal year	1.5
(8) Salary costs of these staff years	$76,000
(9) Other costs charged to the program	$2,000

2. Operations in FY 1980

a. Meetings

Two NDER meetings were held during FY 1980. On January 31, 1980, coincident with the American Mining Congress (AMC) Annual Membership Meeting, a training meeting was held at the Bureau of Mines headquarters in Washington, D.C. Twenty-two Executive Reservists and the entire Washington, D.C., senior staff of the Bureau of Mines were present and participated in the meeting.

A second training meeting was held in San Francisco, California, on September 22, 1980, to take advantage of the AMC Annual Convention. There was a total of seventeen individuals present for this meeting.

b. Recruitment

Effort is continuing in the recruitment of minorities and women possessing highly specialized training, experience, and backgrounds in the metals and minerals industries who might be of help in solving supply/demand and technical problems in the event of a national emergency.

The EMA is continually in touch with associations, such as the American Mining Congress (AMC) and professional societies as the Society of Automotive Engineers (SAE), the American Institute of Mining, Metallurgical, and Petroleum Engineers (AIME) in order to obtain the names of individuals for possible recruitment into the NDER program.

Over the past fiscal year, approximately fifty letters were sent to prospective candidates for the NDER program. Of this number, EMA is currently processing the applications of seven individuals who have expressed an interest in the National Defense Executive Reserve.

3. Plans for FY 1981

At least two meetings are now planned for FY 1981 to coincide with major meetings of the AMC: one in Washington, D.C., about February 1-3, to coincide with the AMC Annual Membership Meeting, and one in Denver, Colorado, about September 27-30 to coincide with the AMC Annual Mining Convention.

E. Department of the Interior - Emergency Water Administration

1. Status of the NDER Program

a. The NDER program for the Emergency Water Administration (EWA) was established during FY 1980. Since its authorization by the Director, FEMA, in February 1980, attention has been focused on recruiting and future training conferences. To date, five individuals have been recruited for the unit.

b. The status of the EWA NDER unit at the end of FY 1980 is summarized below:

(1) Number of active members	0 (5 pending)
(2) Number of emeritus members	0
(3) Number of female members	0
(4) Number of minority members	0
(5) Number terminated this fiscal year	0
(6) Number of new members this fiscal year	0 (5 pending)
(7) Number of staff years devoted to this program this fiscal year	.25
(8) Salary costs of these staff years	0
(9) Other costs charged to the program	0

2. Operations in FY 1980/1981

An orientation/training seminar was held in Emmitsburg, Maryland, on October 22-24, 1980, as a joint effort between FEMA and Department of the Interior. In attendance were Department of the Interior cadres, the Emergency Water Interagency Planning Group, and one Executive Reservist. In FY 1981, EWA plans to have more NDER recruits and another training session.

G. Department of Labor

The Employment Standards Administration Mobilization Coordinator position was vacant during FY 1980. Effective October 19, 1980, the Department appointed a new Mobilization Coordinator for the Employment Standards Administration. One of his first priorities is to update the Executive Reserve program.

H. Department of Transportation

1. Status of the NDER Program

a. Continuing progress has been the hallmark of the NDER unit of the Department of Transportation during FY 1980. This progress can be characterized in both a qualitative and quantitative sense as evidenced by the year end strength shown below and NDER attendance at Regional training meetings. Recently enhanced recruiting has included women and members of minority groups. Department of Transportation has an excellent NDER program and, with the continued high level of support being provided by the Department, is looking forward to significantly greater achievements in 1981.

b. The status of the Department of Transportation NDER unit at the end of FY 1980 is summarized below:

(1) Number of active members	380
(2) Number of emeritus members	135
(3) Number of female members	2 (5 pending)
(4) Number of minority members	15 (estimate)
(5) Number terminated this fiscal year	30
(6) Number of new members this fiscal year	66
(7) Number of staff years devoted to this program this fiscal year	1.0

(8) Salary costs of these staff years $51,000
(9) Other costs charged to the program $26,835

2. Operations in FY 1980

Training was the operational highlight for FY 1980. Each DOT Region, under the auspices of the Regional Emergency Transportation Coordinator, conducted a training session for its assigned Executive Reservists and their Federal employee counterparts who have emergency assignments in the Department. In addition to the Regional meetings, a National level NDER planning conference was held in order to outline and discuss the year's program with Regional Directors-designate and their Deputies.

NDER attendance for the National and Regional meetings in FY 1980 was as follows:

Region	Training Dates	NDER Attendance
National	February 1980	45
1 and 2	November 1979	28
3	October 1979	15
4	May 1979	20
5	September 1980	23
6	October 1979	14
7	May 1980	11
8	October 1979	9
9	May 1980	19
10	September 1980	21
Alaska	September 1980	10
		215

3. Plans for FY 1981

First quarter FY 1981 training sessions will be:

Region	*Training Dates*	*Locations*
6	*October 6-7*	*Dallas, TX*
4	*October 9-10*	*Atlanta, GA*
1 and 2	*October 22*	*Boston, MA*
3	*October 30-31*	*Philadelphia, PA*

The annual DOT NDER planning conference is scheduled for February [illegible], 1981. It will be held in the Washington, D.C., metropolitan area.

E. Interstate Commerce Commission

During FY 1980, the principal activity of the Interstate Commerce Commission cadre of the NDER consisted of updating the roster of Reservists. Plans are to reduce the roster of Reservists to a number that would be more effectively used in a time of declared emergency. A preliminary meeting has been held with the American Association of Railroads to initiate a project to update the current emergency procedures applicable to railroads. This project will be performed in cooperation with the Department of Transportation.

J. Federal Emergency Management Agency

1. Status of NDER Program

a. The NDER program in FEMA has received increased attention at the national and regional levels. As a result, recruitment and training efforts are on the rise.

b. The status of the FEMA NDER unit at the end of FY 1980 is summarized below:

(1) Number of active members	265
(2) Number of recruit members	21
(3) Number of female members	8
(4) Number of minority members	1
(5) Number terminated this fiscal year	18
(6) Number of new members this fiscal year	14
(7) Number of staff years devoted to this program this fiscal year	6
(8) Salary costs of the staff years	$159,120
(9) Other costs charged to the program	$3,400

2. Operations in FY 1980

During FY 1980, the standard operating procedures for the two FEMA NDER units were developed. These units are the Office of Defense Resources and the Economic Stabilization Agency. In addition, a brochure entitled "Emergency Instruction for FEMA Executive Reservists" was published. A press release on the program, as well as an increase in individual recruitment efforts by the staff, yielded nearly two hundred inquiries from prospective applicants. Twelve Executive Reservists attended training meetings and exercises. In addition, support among Reservists was evidenced by the revival of activity of the NDER Conference Association which named new members to its Board of Directors and prepared to assist in plans for a National Conference of the Executive Reserve in 1982. The Association consists of Executive Reservists assigned to the departments and agencies which participate in the program.

3. Plans for FY 1981

During FY 1981, FEMA will develop plans for an Executive Reserve Unit to support emergency management activities such as civil defense, continuity of government, and public information. In addition, a plan of instruction for interagency NDER training programs in the Regions will be completed and implementation will begin. The number of new member designations is expected to be more than double the 1980 figure.

The role of the FEMA Regional Offices in the NDER program is expected to grow significantly in FY 1981. A summary of planned Regional activities follows.

Region I Plans

Active recruitment of ten NDER's is planned to fill vacancies in the Economic Stabilization Agency. On October 24, 1980, Region I hosted a Regional Preparedness Committee Meeting (RPC). Ten NDER's attended. This meeting served as a training session for the NDER's in identifying the Federal Government's role in emergency preparedness responsibilities.

Region II Plans

It is expected that recruitment of vacant positions in ODR/ESA will be started in FY 1981. This activity will necessitate briefing and training the NDER's.

Region III Plans

Region III will continue its efforts to recruit Reservists to reach currently authorized NDER unit personnel ceilings.

A regional NDER training session is tentatively scheduled for the third quarter of FY 1981.

Region IV Plans

In FY 1981, Region IV plans to maintain the current strength of ODR and ESA NDER's.

Region V Plans

During FY 1981, a training session will be provided for NDER members. A local Reservist, has volunteered his assistance to pursue training. Recruitment will follow as required.

Region VI Plans

Region VI's goal is to recruit 10 Reservists and conduct training for them. Region VI also plans to conduct an NDER regional conference sometime during FY 1981.

Region VII Plans

FEMA Region VII NDER members will be invited to participate in the two regional meetings of the Regional Resource Advisory Board (RRAB) in connection with REX-80 BRAVO activities.

Region VIII Plans

The roster of Reservists assigned to ODR and ESA will be revised and distributed in the second quarter.

A joint training session for ODR/ESA Reservists will be held in the FRC in the third quarter.

Region IX Plans

Region IX plans more participation in exercises by the NDER, culminating in the national exercise REX-81, to be held in San Francisco.

Region X Plans

Plans for FY 1981 are limited to recruitment of new members. A training program is being developed for FEMA Reservists and will be ready to implement in FY 1981.

☆ U. S. GOVERNMENT PRINTING OFFICE [illegible]

EMERGENCY MANPOWER RESERVES PROGRAMS

1. General

DOE has responsibility for administering three national defense executive reserve units:

-- Emergency Electric Power Administration (EEPA)
-- Emergency Petroleum and Gas Administration (EPGA)
-- Emergency Solid Fuels Administration (ESFA)

These units are authorized under the Defense Production Act of 1950 and until the formation of DOE (October 1977) were under the Department of the Interior. Their basic mission is to coordinate and, if necessary, direct the operations of the electric power, petroleum and gas, and solid fuels (i.e., coal/coke) industries during conventional or nuclear war or threats to national security.

2. Revitalization

From October 1977 until recently, these units lay essentially dormant with memberships allowed to lapse and training discontinued. Now there is an effort to revitalize and, to some degree, expand the scope of membership and activities of the units. Also, it is our intention to have the North American Electric Reliability Council (NERC) play a prominent role in this process. (For example, to include not merely members of the electric utility industry, but representatives of major industrial consumers, states, and others.)**

Initial attention is being focused on the Emergency Electric Power Administration (EEPA) unit, in large part, because it retained a high degree of cohesivness and continuity during the Carter years

3. Activities and Plans

On February 10, 1982, the EEPA field organization (Area Directors and Deputy Directors from utilities across the country) met with DOE in Washington, D.C., the first such meeting since 1979. The meeting was attended by virtually all directors and deputies, as well as representatives of the three major trade associations.

This Spring, a larger conference is planned in Washington, D.C., at which representatives from all major energy industries, energy users, states and local government will be invited. The purpose of this meeting will be to annunciate DOE's plans to revitalize the reserves, obtain feedback, and, to the extent practical, resolve problems.

4. Sensitivities**

It is clear from written correspondence and oral statements made at the February 10th meeting of EEPA that the electric industry feels the reserves should remain exclusively national security oriented. In response to this, DOE has said that our efforts at revitalization of EEPA will focus on restoring the original purposes of EEPA and bringing it to a proper condition of readiness for national security emergencies.

HGB-3/11/82

RECEIVED
MAR 0 5 1982
N.E.R.C.

Department of Energy
Washington, D.C. 20585

Attachment 8

Mr. Michehl Gent
Executive Vice President
North American Electric
Reliability Council
Research Park, Terhune Road
Princeton, New Jersey 085440

Mike

Dear Mr. Gent:

Thank you for attending the February 10, 1982, EEPA Reserve Area Directors Workshop. This meeting was very informative and I want to express my appreciation for your participation. As a result of the workshop, our immediate objective will be to revitalize the EEPA program focusing on its original defense-related mission. Further, we intend to commit resources sufficient to maintain an adequate standby reserve organization including somewhat broader representation from such groups as associations within the electric utility industry, etc.

The preliminary plan to accomplish this objective includes the following priorities and goals:

- -- Retain a field structure coincident with the existing nine regions of the North America Electric Reliability Council (NERC);
- -- Update, publish and distribute the EEPA Reserve Handbook; and
- -- Develop and conduct a training program for the EEPA Reserve field organization.

Also, my office will initiate actions to enhance communication between NERC and the Department of Energy (DOE) to promote better coordination with regard to electric utility industry procedures for non-defense emergencies.

These actions concerning the EEPA Reserve will commence immediately, since we are sensitive to the frustrations expressed at the workshop about the past inability of DOE to move forward on the EEPA. We will be continuing to review and assess the DOE's executive reserve programs over the next several months, and look forward to working with you further on energy emergency preparedness programs.

Sincerely,

Ronald L. Winkler
Deputy Assistant Secretary
for Energy Emergencies
Environmental Protection, Safety,
and Emergency Preparedness

DOE F 1325.8
(7-79)

U.S. DEPARTMENT OF ENERGY
memorandum

DATE October 9, 1981

REPLY TO ATTN OF EP-42

SUBJECT DOE's Emergency Preparedness Administrations

TO Ronald L. Winkler
Deputy Assistant Secretary
Energy Emergencies

There are three Preparedness Administrations assigned to the Office of Emergency Operations:

-- Emergency Electric Power Administration (EEPA)
-- Emergency Petroleum and Gas Administration (EPGA)
-- Emergency Solid Fuels Administration (ESFA)

These Administrations were transferred from the Department of Interior to DOE in 1977. They have been maintained at varying degrees of capability for the past few years. Since the formation of the Office of Emergency Operations, staff have been assigned to all three of these Administrations and tasked to ascertain what has to be done to bring these organizations to operational readiness. My general guidance to these staff members was to look towards creating organizations that could be responsive to both industry's and Government's needs without becoming a bureaucracy unto themselves.

I want to point out some of the items presented concerning each of the Administrations and solicit your guidance on "next steps." After you've had a chance to digest the attached information, I'd appreciate meeting with you on the subject.

A common concern to all three Administrations is the concern of the Executive Reserves and Executives Without Compensation (WOCS) with regard to the U.S. Conflict of Interest laws, Anti-trust laws, and the Federal Advisory Committee Act. I have requested advice from the Office of General Counsel on this matter and soon expect a written response.

EEPA

- Staff has conducted extensive interviews with 24 WOCS.
- GAO was concerned that the EEPA was "barely alive." DOE is committed to increased activity with EEPA.
- Industry feels that EEPA's activities should remain defense related.
- EEPA should provide for information flow, claims for fuels, and a mechanism to assure priority needs during defense emergencies.
- Comprehensive periodic training sessions should be held for WOCS.
- There should not be a regional DOE structure.
- EEPA proposal should receive the endorsement of several industry associations.

- The Administrator should be a senior DOE manager.
- Rosters and security clearances are generally up-to-date for the WOCS.
- EEPA handbook should be brought up-to-date and published.

EPGA

- Currently the Secretary of Energy is the Administrator.
- Could be used for other than defense emergencies.
- Organized into 10 regional units utilizing a total of 150 Executive Reservists.
- ERA did not maintain this Administration since it felt it was already staffed to handle emergencies.
- All Executive Reserve appointments have expired, but since the DOE reorganization, the necessary steps have been taken to recreate an up-to-date roster of Reservists.
- A contractor is developing a revised EPGA handbook. Interim deliverables have been received.
- A paper is being prepared on utilization of industry personnel in energy emergencies.

ESFA

- Has been in a complete inactive status until recent DOE reorganization.
- Meetings have been held with key officials in the industry and other Federal agencies.
- Handbook and reservists roster must be brought up-to-date.
- Training materials are being prepared.
- Security clearances must be obtained for assigned DOE staff and Executive Reservists.
- Organizational meeting will be held this fall with key industry and Government officials.
- Meetings have produced following comments:
  - Excess coal production and transportation exists,
  - Regulations concerning coal transportation are the most serious issues during an emergency,
  - Reactivation is enthusiastically received,
  - Possible non-defense use of ESFA envisioned.
- Training is essential.

Richard E. Weiner

Richard E. Weiner
Acting Director
Office of Emergency Operations

Attachments

cc: Andy Drance
Jim Workman
Phil Layfield

DOE F 1325.8
(7-79)

U.S. DEPARTMENT OF ENERGY

memorandum

DATE SEP 21 1981

REPLY TO ATTN OF James V. Barker, EP-422

SUBJECT DOE Headquarters Staff Meetings With Emergency Electric Power Administration (EEPA) Field Organization

TO Richard E. Weiner

Through: James W. Workman Chf B Layfield for

The three DOE headquarters professionals assigned to the Emergency Electric Power Administration have completed discussions with twenty-four of the standby industry reservists comprising the field organization. These reservists have been appointed by the Department of Energy by authority of Executive Order 10647, as amended, under the Defense Production Act of 1950. They are "special government employees" which serve on a without compensation (WOC) basis.

These meetings were held individually with the key individuals in the standby organization to identify areas of concern and actions they believe necessary to attain a state of readiness for defense related emergencies. DOE staff traveled to meet with the field personnel, as opposed to requesting that they come to Washington, to demonstrate the Administration's high regard for industry volunteers participating in this program and it's commitment to achieving a state of readiness. The objective was to gather information as input for DOE's development of a draft program plan for FY'82. The comments received are summarized below:

EEPA Role:

- o EEPA should provide a means for developing and maintaining an adequate mobilization base and organization for electric power capable of meeting defense and essential civilian electric power requirements in the time leading up to and during a defense related emergency.
- o EEPA should be the mechanism for information exchange between the electric utility industry and government during defense related emergencies. It should act as a claimant agency for the electric utility industry for scare resources such as fuel and equipment.
- o EEPA should be the mechanism for assuring that priority loads are served during a defense related emergency.

Organization:

- EEPA should continue to be a voluntary organization of electric utility personnel. The headquarters staff should provide leadership and support for the field organization. It should conduct training, maintain a current system of directives and manuals, and maintain liaison with other State and Federal agencies. It is felt that a small non-technical headquarters staff can efficiently meet the needs of the field organization.

- A regional DOE staff in support of EEPA is vigorously opposed. Such a proposal was made by DOE three years ago and was rejected by EEPA's area directors.

- The support previously provided by utility CEO's serving on the EEPA industry advisory committee was valuable in obtaining the cooperation of other utility executives and commitment of time for preparedness activities. No organization has filled this role since DOE disbanded the committee. Many in the field organization believe that the Board of Trustees of the North American Electric Reliability Council should sanction and support EEPA. DOE would have to take the initiative in raising this with NERC.

- Headquarters positions and responsibilities should be defined relative to EEPA. Who will be Administrator? Will there be a Director?

- Rosters are generally up-to-date but some vacancies do exist. Difficult to fill given lack of activity in recent years.

Issues:

- Concerns were expressed relative to anti-trust implications.

- Views on conflict of interest and public disclosure of holdings vary from grudging acceptance to extreme annoyance. The attitude may be summed up as, on the one hand, the government wants to avail itself of utility expertise in the nationl interest, while on the other hand, it puts utility personnel in a defensive posture. (A legal analysis by OGC of the effect of the Federal

Advisory Committee Act, conflict of interest statutes, and antitrust considerations on EEPA has been initiated.)

Training:

- The consensus is that training is badly needed. Training should inform those filling positions in the field organization as to the relevant authorities and procedures to be followed if EEPA is mobilized. Questions with regard to coordination with State and regional Federal authorities need to be answered.

- It is felt that a careful, deliberate program of training is preferable to undertaking a crash program. The key to winning the confidence of the industry is to frequently consult with the field organization, and to carefully prepare training exercises.

- Training must be carried out at locations convenient to utilities in order to maximize participation. Because of poor financial circumstances, many utilities are restricting employee travel and would be reluctant to send people to Washington for training. (This may pose a problem for DOE given its budgetary limitations.)

- EEPA Headquarters must demonstrate in training sessions that the various relevant governmental agencies understand and agree on their relative roles. Neither the DOE nor other government agencies have been together in previous training sessions. DOE has not adequately done its homework for some prior meetings and has attempted to implement new concepts which have not been developed in consultation with the field organization.

- It is felt that the proposal to conduct training during the winter of 1982 with follow-up exercises during the spring and fall of 1982 is feasible and desirable. It is recommended that training not be conducted during the summer of 1982 because of vacations and operator's preoccupation with running systems during peak loads.

- Electromagnetic pluse (EMP) training and course development should only be undertaken as the headquarters and field organizations attain a state of operational readiness. EMP should be a lower priority activity.

Materials:

- The EEPA Handbook which was updated and published in draft form in 1980 should be finalized.
- A concise statement of the purpose of EEPA and how it will function would aid in recruiting replacements for field positions. In this regard, endorsement by NERC BOT of EEPA as a priority utility activity would greatly assist area directors in filling positions. (While NERC represents a larger segment of the industry than any other utility organization, it does not represent all utilities. Consequently DOE should also seek endorsement from the America Public Power Association, the National Rural Electric Cooperative Association, and the Edison Electric Institute.)
- The information letter is an effective means for keeping the field organization current. It is evidence that the organization is active.

Summary:

- In general EEPA field personnel expressed a mixture of enthusiasm for revitalization of the program and skepticism that DOE will follow-through and support development of a program similar to that which was adminstered by DOI. Some directors expressed extreme frustration arising from their perception of a lack of support from DOE management over the past four years. The attitude on the part of industry is that it will contribute its share to preparing for defense related emergencies if DOE headquarters staff can follow-through with necessary training, organizational, and liaison efforts. The directors of the field organization were appreciative of DOE's efforts to come to them. One noted that it had been years since one of the Washington staff had taken the trouble to meet with him at his office.

Department of Energy
Washington, D.C. 20461

SEP 30 1981

MEMORANDUM FOR RICHARD WEINER

THRU: ANDY DRANCE AW
BRIAN C. WOODWARD

FROM: BOB PRESLEY Bob Presley

SUBJECT: STATUS OF THE EPGA

The attached paper on the above subject has been prepared in accordance with your request for use in briefing Mr. Vaughan and his staff.

Attachment

Status of the Emergency Petroleum and Gas Administration

The Emergency Petroleum and Gas Administration (EPGA) was established in 1963 to provide a planned, organized approach to Federal emergency responsibilities for oil and gas. It was transferred to the Department of Energy when the Department became effective in 1977, with responsibilities and authorities defined by the Defense Production Act of 1950 and Executive Orders 11490 and 10480.

Role: *The EPGA is one of three standby emergency organizations in DOE and one of 15 in the Federal Government. The EPGA could be utilized in a national defense emergency to assist, coordinate, and direct, where necessary, activities of the oil and gas industry, in order to assure that domestic and foreign supplies of oil and gas meet essential military and civilian requirements of the Nation and its allies.* In achieving this mission, among the functions of EPGA would have to perform are the following:

1. Formulate and coordinate oil and gas supply programs.
2. Act as claimant for the oil and gas industry before other agencies to obtain supporting resources such as manpower, materials, transportation, communications, and funds needed for vital programs.
3. Coordinate and direct the allocation and distribution of petroleum products from primary inventories to distribution, wholesalers, etc., and gas to local distribution systems.
4. Establish and maintain communication with the oil and gas industry and with government agencies, as necessary to perform the above functions.

The EPGA is a complete organization entity with the Secretary of Energy as its National Administrator. It would be able to function with other Federal emergency organizations to manage the Nation's resources in even the worst kind of emergency, an attack upon the United States. However, its utility is not limited to such a disaster. It is functionally organized and could be activated in parts as the needs of a particular emergency might dictate. Its role could be limited to supply coordination or expanded to include international coordination or whatever is appropriate for the situation.

The EPGA is intended as an organization that could be quickly mobilized and quickly deactivated when the need ceases.

Organization and Staffing: EPGA is composed of a National Headquarters of approximately 190 key executives and 10 regional units with an average of about 50 key executives in each region. The Deputy Administrator would be the operating head of the National Headquarters under the Secretary. He would have assistants for Domestic Petroleum Operations, Foreign Petroleum Operations, Gas Operations, and Support Services as well as an Office of Program Coordination and other staff and support offices. Regional administrators would not have Foreign Petroleum Operations or Program Coordination but would otherwise duplicate the National Headquarters to the extent justified by Petroleum Operations in the regions. Oil and gas coordination would be established with each state. Eight gas group offices are established according to major gas transmission pipeline flow patterns.

The EPGA is staffed primarily with industry executives and experts selected and appointed as members of the National Defense Executive Reserve. Members are assigned to positions in EPGA that are consistent with their current assignments in industry. Continual updating is required to keep current in these assignments. Some government officials have emergency assignments with the EPGA consistant with their background principally in support roles. Two alternate deputy administrators are designated, one from industry and one from Government. This provides flexibility for the Secretary to choose either to fit the nature of the emergengy or of course to select some third party if he or the President chooses.

Issues: The EPGA is currently in a state of neglect since the Economic Regulatory Administration, to which it was assigned, felt that it was already staffed to handle emergencies. No new appointments or renewals have been approved since January 1977, so all of the three year executive reserve appointments have expired. Thus, the EPGA exists as a paper organization only at this time. However, steps are being taken to correct this situation as follows:

1. A contract has been signed with BDM to develop a revised EPGA Handbook and training materials. Work is underway and initial deliverables have been received.

2. Letters are being sent to former EPGA reservists to update addresses, etc.

3. Letters are being sent to company coordinators to open the way to fill all of the EPGA positions.

4. A draft paper on the utilization of industry personnel in energy emergencies has been developed and being circulated. Assistance from the National Petroleum Council is postulated as the most effective way to reconstitute the EPGA.

5. A legislative initiative to eliminate conflict of interest problems for industry personnel has been recommended.

Summary: The EPGA is a versatile, effective mechanism for meeting Federal program management needs in national emergencies. It has been allowed to become dormant, but positive steps are underway to bring it back to life.

Department of Energy
Washington, D.C. 20461

30 SEP 1981

MEMORANDUM FOR RICHARD E. WEINER

FROM: BOB REINSTEIN

THROUGH: ANDY DRANCE

SUBJECT: STATUS OF THE EMERGENCY SOLID FUELS ADMINISTRATION (ESFA)

ROLE: ESFA provides the capability to continue essential activities of the solid fuels* industry during and following periods of national emergencies. ESFA will assist the industry in managing their resources to assure the most effective utilization and availability of solid fuels for national defense and essential civilian requirements. ESFA is required to develop emergency preparedness plans and programs and to organize a corps of "reservists" from the solid fuels industry to become full-time employees of ESFA if ESFA were to be mobilized by the President. Key federal employees would also be included on the ESFA staff.

BACKGROUND: ESFA was established in 1965 by the Department of Interior (DOI) in accordance with guidance from the Office of Emergency Preparedness. In addition to regular annual meetings, ESFA produced a handbook of operations, established training programs, and produced and maintained data and analyses appropriate to the solid fuels industry.

ESFA was transferred to the Department of Energy in 1977, where it has been in an inactive status. In June 1981, DOE undertook reactivation of ESFA.

---

* "Solid fuels" means coal, coke, and coal chemicals produced in the coke making process.

RECENT AND CURRENT ACTIVITIES: The Emergency Solid Fuels Operations Branch has conducted meetings with key officials in the solid fuels industry, labor officials, and government officials in other agencies with emergency preparedness responsibilities. The ESFA handbook and training manual are in need of updating. Former reservists need to be contacted and new reservists recruited.

Industry and government liaison:

Meetings with key industry officials:
- --National Coal Association
- --Bituminous Coal Operators Association
- --United Mine Workers of America
- --American Mining Congress
- --Mining and Reclamation Council
- --Association of American Railroads

Meetings with other Federal organizations:
- --Federal Emergency Management Agency (FEMA)
- --Emergency Minerals Administration (DOI)
- --Emergency Transportation Administration (DOT)
- --Office of Industrial Mobilization (DOC)

Meetings with state and local officials:
- --National Governors Association

Highlights of meetings:

- o Coal production is constrained by demand; excess production and transportation capacity exists in the U.S.

- o Regulations and transportation of coal are the most serious issues affecting coal during emergency situations.

- o Reactivation of ESFA was received enthusiastically by industry, labor and the governors association, provided that DOE commit top-management support.

- o Non-DOE emergency administrations are very willing to cooperate with ESFA. Possibility of sharing training sessions has been discussed.

- o Recommendations included:
  - --Initially limiting the number of participants in ESFA
  - --Include non-war emergencies in ESFA responsibility

--Industry and government should share information
--Training programs essential to maintain industry participation

Handbook:

- o ESFA handbook (last updated by Department of Interior in 1976) is being revised by the Emergency Solid Fuels Operations Branch with contractor assistance.

Training sessions:

- o Discussions with other agencies have provided information on their training sessions. We will attend several actual sessions conducted by other emergency administrations
- o Preparing training plans and materials.

Update reservists list:

- o Reviewing list of contacts for new ESFA reservists.
- o Preparing letter to former ESFA reservists.

Security clearances:

- o Clearances are pending for current Emergency Solid Fuels Operations Branch employees.

PROJECTED ACTIVITIES:

- o ESFA organizational meeting with key industry and government officials is tentatively scheduled for the middle of November 1981.
- o A program is planned to actively recruit and enlist reservists to participate in ESFA and to set up a network of communications for regular contact with reservists.
- o All reservists will require national security clearances, which will take about six months to obtain after submission of personal data requirements.
- o At least one training session a year, to include reservists, is currently planned.

GOAL: Emergency Solid Fuels Administration to be fully operational by November 1982.

JUN 4 1979

MEMORANDUM FOR: David L. Mohre
Strategic and Emergency Planning
Office of Utility Systems

FROM: Thomas E. Robinson
Deputy Ethics Counsellor
Office of the General Counsel

Original signed by:
Thomas Robinson

SUBJECT: EMERGENCY PREPAREDNESS AND CONFLICTS OF INTEREST

This is in response to your memorandum request to Mr. Goodwin dated March 20, 1979 concerning conflict of interest constraints upon the Secretary's ability to utilize individuals from energy-related industries in the discharge of the emergency preparedness functions and responsibilities delegated to him by Exec. Order No. 12038, February 3, 1978.

Your memorandum raises three questions:

1. Can an individual employed by an energy-related industry and who is designated a member of the National Defense Executive Reserve (NDER) and/or as a Special Government Employee Serving Without Compensation (WOC) be utilized by the Secretary of Energy in an energy or other type of emergency?

The Defense Production Act, as amended, specifically authorizes the appointment and utilization of WOCs and NDERs by the President in the event of a national emergency. 50 Appendix U.S.C. 2061, 2160. (Tab A) This authority has been delegated to the Secretary of Energy by Exec. Order No. 12038, supra.

The Secretary's ability to use WOCs* is limited by, inter alia, Federal conflict of interest laws and regulations.

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*The focus of this memorandum is with WOCs. Since the activities of the NDERs, according to your memorandum, are restricted to participating in training exercises for possible emergency moiblization, and since their training does not include advising, consulting, or acting on any matter pending before any Governmental agency, they are not considered Government employees for purposes of the conflict of interest provisions. When employed, however, NDERs become subject to all relevant Federal conflict of interest statutes. OEP Cir. 9700.2B.

This is particularly true for those WOCs employed by energy related entities such as utilities.

Very generally, there are two major bodies of law which apply to employee conduct in this area. The first is contained in the criminal statutes of the United States, sections 201 through 209 of title 18, United States Code. These provisions, or predecessors thereof, are applicable to all Executive Branch personnel and have been in effect at least since 1962. (Tab B)

The second body of law is relatively new and applies only to employees of the Department of Energy. It comprises Part A of Title VI of the Department of Energy Organization Act (Public Law 95-91), and became effective October 1, 1977. (Tab C) This law is in addition to, and not in substitution for, the title 18 provisions.

The title 18 conflict of interest provisions are implemented primarily by an Executive Order and a series of regulations. Executive Order 11222, issued by President Johnson on May 8, 1965 (Tab D), prescribes standards of ethical conduct for Government officers and employees and vests in the Civil Service Commission (now Office of Personnel Management) responsibility for promoting and ensuring conformance with those standards (Sections 601 and 701, E.O. 11222, May 8, 1965). Civil Service Commission regulations published at Part 735 of title 5, Code of Federal Regulations (Tab E), set forth guidance for heads of Federal agencies in prescribing standards of conduct and responsibilities for employees of their respective departments. These regulations establish certain standard provisions which, as a minimum, are to be included in agency regulations (5 C.F.R. 735.201).

Final Conduct of Employee regulations for the Department of Energy were published April 26, 1979 (44 F.R. 24696). (Tab F) While these laws and regulations very likely go beyond your particular needs you may find them convenient and useful for reference.

As I understand the Emergency Electric Power Administration (EEPA) program, you plan to appoint approximately 50 individuals from the Electric Utility industry to serve as WOCs. The EEPA would be composed of you and your staff on a full time basis. During normal times you would use WOCs for approximately 10 days per year, but in the event of an emergency, their services would be required for a period not to exceed 130 days in any 365 day period. In such event, you would use the WOCs only for so long as would be required to replace the WOCs with full time Government personnel. As presently planned, WOCs would to the maximum extent possible implement decisions made by regular Government or state employees. They would not make policy decisions but would be doing those things that in most, if not all, cases could only be made by knowledgable professionals, familar with specific systems and facilities "on the scene."

For conflict of interest purposes, the most pertinent statute is section 208 of title 18, United States Code. In substance, section 208 prohibits any Government employee whether regular or special, from participating personally and substantially in any particular matter in which, to the employee's knowledge, the employee or the employee's spouse or minor child has a financial interest. (Tab B)

A particularly useful overview and summary of the prohibitions of section 208 as well as other sections of title 18, as they apply to special Government employees such as WOCs is found in appendix C, Chapter 735 of the Federal Personnel Manual:

> 18 U.S.C. 208. This section bears on the activities of Government personnel, including special Government employees, in the course of their official duties. In general, it prevents a Government employee from participating as such in a particular matter in which, to his knowledge, he, his spouse, minor child, partner, or a profit or nonprofit enterprise with which he is connected, has a financial interest. The section, however, permits an employee's agency to grant him an ad hoc exemption if the interest is not so substantial as to affect the integrity of his services. Insignificant interests also may be waived by a general rule or regulation. Whether an agency should issue a general rule or regulation and, if it does so, what standards it should set are questions which should be resolved by

> each agency in the context of its particular responsibilities and activities.
>
> The matters in which special Government employees are disqualified by section 208 are not limited to those involving a specific party or parties in which the United States is a party or has an interest, ... Section 208 therefore undoubtedly extends to matters in addition to contracts, grants, judicial and quasi-judicial proceedings, and other matters of an adversary nature. Accordingly, a special Government employee should, in general, be disqualified from participating as such in a matter of any type when its outcome will have a direct and predictable effect upon the financial interests covered by the section. The power of exemption, however, may be exercised in this situation if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization. The power of exemption may, of course, be exercised also where the financial interests involved are minimal in value.

An example of resort to the procedures set forth above arose during the oil embargo in 1973. I have attached a copy of a detailed proposal by the late Secretary Morton to the Attorney General and copies of his response at Tab G. I would urge you, with the aid of your program counsel, to carefully examine your program in light of these enclosures because of what I understand to be the similarity between the KEPA program and the issues addressed by the Attorney General in 1973.*

Thus, while the Secretary has the authority to appoint WOCs pursuant to Exec. Order No. 12038, _supra_., it is evident that his ability to utilize individuals employed by energy related entities is not unlimited.

---

*Since section 208 is a criminal statute, its enforcement and interpretation is the responsibility of the Attorney General. Thus, his opinions provide authoritative guidance on issues not addressed by the courts nor, of course, the Congress.

2. If the answer is affirmative, a related question arises: Does the fact that the office responsible for the plans, programs and administration of the standby emergency organizations is located within the Economic Regulatory Administration result in a conflict of interest problem which might be diminished or eliminated by an alternative organizational arrangement?

The placement within the Department of the office responsible for the discharge of the emergency energy preparedness functions of the Secretary is primarily a management matter. Conflict of interest problems are created by locating this office in the Economic Regulatory Administration, the part of the Department charged with regulating many of the private sector entities from which the WOCs would be drawn for Departmental service in an emergency. However, I don't think these problems can be minimized to any appreciable extent by locating this office elsewhere so long as the responsibility for the discharge of these functions remain the responsibility of this Department.

3. What steps should be taken to provide appropriate safeguards against conflict of interest problems stemming from the utilization by the Secretary of Energy of industry employees in an emergency situation?

a. WOCs appointed pursuant to the Defense Production Act, as amended, are required to file and have published financial statements in the Federal Register. Section 2160, supra. While this publication requirement was probably related to minimizing conflicts of interest when section 2160 was enacted, this publication requirement has not been explicitly repealed. Therefore the publication practice should be continued, in spite of disclosure requirements discussed in the next paragraph.

The conflict of interest provisions of the Department of Energy Organization Act are also applicable to WOCs. For example, Section 603 (T[illegible] C) requires all Departmental employees, unless specifically exempted by the Secretary, to periodically disclose in writing all financial interests in, and official relationships with, "energy concerns." Therefore, to comply with section 603, supra, each WOC should execute and submit DOE Form GC-459 for review and advice.

b. Given the practical problems involved in amending the Department's conduct of employee regulations, individual section 208(b) waivers substantially identical to those approved by the Attorney General, referred to, should be prepared. This office stands ready to assist in this effort.

c. In planning the use to be made of the WOCs, the scope of their discretionary authority to act should be kept as narrow as possible in order to avoid any action by a WOC which could reasonably be considered outside the scope of the exemption.

d. Every effort should be made to insure that all agreements among the WOCs, their employers and the Department be understood so as to make their respective responsibilities clear in the event of an emergency. If the WOCs, their employers, or Departmental personnel have questions concerning conflicts of interest, such questions should be referred to this Office for advice.

In summary, it is the opinion of this Office that the Secretary is legally authorized to utilize the services of special government employees serving without compensation to discharge the emergency preparedness responsibilities delegated to him. Conflict of interest problems are likely to be created where these employees are drawn from energy related entities. These problems should be minimized if the steps discussed are followed. In the last analysis, however, the inhibiting effect of conflict of interest considerations will be determined by the nature, duration and severity of the emergency.

Attachments:

cc: Robert Goodwin, GC
David Bloom, AS/PE

GC

TERobinson:lms
6/4/79

United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

November 16, 1973

My dear Mr. Acting Attorney General:

I respectfully request your opinion as to the scope of 18 U.S.C. 208 as it relates to the employment of petroleum industry personnel whose services will be utilized by an interdepartmental group currently being assembled within the Government to be known as the Energy Allocation Planning Task Force, and also to be employed by the Government to become part of the staff of the Office of Petroleum Allocation within my Department. In this connection, I attach hereto a proposal which sets forth generally the manner in which the petroleum industry employees will function in the Energy Allocation Planning Task Force and the Office of Petroleum Allocation. As you know, the Government is currently faced with an emergency situation respecting the availability of petroleum and petroleum products. In order to effectively deal with this current critical situation I have determined that there is an urgent requirement for personnel with petroleum-related expertise. So far as we can readily ascertain, there is no reasonably available source for satisfying the immediate needs for such expertise other than from the ranks of the United States petroleum industry itself.

It is my intention in dealing with this situation, more fully discussed in the attached proposal, to engage personnel from the petroleum industry as "special Government employees" within the meaning of 18 U.S.C. 202 In other words, it is our intention to employ such personnel, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, for temporary duties either on a full time or intermittent basis. At the time of hiring such personnel we plan to inform them specifically of the provisions of Section 208 and our Department's regulations implementing and relating thereto. Moreover, with respect to any such industry personnel hired by any other department of the Government, or any other agency thereof, to be part of the aforementioned Emergency Allocation Planning Task Force, it is our intention that the head of such other department or agency employing such industry personnel as special Government employees would give them the same advice.

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I would appreciate your opinion as soon as possible.

Respectfully,

Rogers C B Morton
Secretary of the Interior

Attachment.

Honorable Robert H. Bork
Acting Attorney General
The Department of Justice
Washington, D.C. 20530

In considering the attached proposal regarding use of petroleum industry personnel in the Office of Petroleum Allocation (OPA), and in the Energy Allocation Planning Task Force, it must be kept in mind that the Secretary of Interior would take the following steps prior to implementation of any portion of the proposal:

First, he shall issue an appropriate regulation prohibiting any such employee from participating personally and substantially while a government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a direct and immediate financial interest. Such an employee shall not be deemed to have a direct and immediate financial interest within the meaning of this regulation where the employee's own company is not involved and the effect of the particular matter results in no preference or advantage to any particular petroleum company or segment of the petroleum industry.

Second, he shall issue an appropriate regulation and publish the same in the Federal Register that makes a determination that an exemption or waiver shall be granted to a special government employee if such employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization.

OFFICE OF PETROLEUM ALLOCATION

On November 6, 1973, Secretary of the Interior Rogers C. B. Morton created by Secretarial Order the Office of Petroleum Allocation within the Department of the Interior. Vice Admiral Eli T. Reich, U.S.N. (retired), has been designated by Secretary Morton as Administrator of the Office of Petroleum Allocation.

In creating the Office of Petroleum Allocation, Secretary Morton transferred to this new office the responsibility for administration of the voluntary and mandatory petroleum allocation programs previously administered by the Office of Oil and Gas under the Economic Stabilization Act of 1970, as amended by the 1973 petroleum allocation amendment, commonly referred to as the Eagleton Amendment.

The mandatory propane allocation program has been in effect since October 2, 1973, and the mandatory middle distillate allocation program has been in effect since November 1, 1973, and it has become readily apparent that a critical problem facing the Office of Petroleum Allocation in the administration of the entire allocation program is the present lack of personnel at both the Washington and field levels with expertise in the subject matter of the allocation program, petroleum and petroleum products. This document therefore directs itself to this problem and to two specific and interrelated questions, namely, where can people be located that have the requisite expertise needed, and second, assuming that such persons are available and are willing to be brought into the program, exactly how would such persons function within the organization?

The Urgent Need to Provide on an Immediate Basis Experienced Professional Personnel from the U. S. Petroleum Industry to Assist the Administrator of the Petroleum Allocation Program

In the current emergency situation with respect to the availability of petroleum and petroleum products, it is essential that the Federal Government be provided with the best available advice and information concerning the petroleum industry, including its distribution system. The petroleum industry is one of the most complex industrial organizations in the United States. Virtually any decision that is made with respect to the reallocation of petroleum (or products) will have very significant secondary and tertiary ramifications throughout the industry. The decision maker must be apprised in advance of the probable consequences of his decisions, or the allocation program inevitably will fail to provide an equitable distribution of available supplies. At worst, decisions (e.g., shifts between regional areas) could very seriously worsen the situation.

At the present time, the petroleum Allocation Program has fewer than 15 professionals assigned from the Federal service who have any background whatsoever in the petroleum industry. With respect to other Federal employees, who possess the requisite background and conceivably might be detailed to the program, they cannot be made available in significant number without seriously impairing other petroleum-supply programs of equally high priority. There are approximately 250 petroleum engineers employed by the Federal Government; 194 of them are in Interior Of those in Interior, virtually all of them are now fully occupied in intensive planning, research, and other work necessary to achieve a longer range increase in the domestic supply of petroleum and petrolqum products (e.g., offshore leasing and improved recovery from existing reservoirs).

In general, the type of petroleum-related expertise in the Federal establishment is not of the character that is needed immediately to deal with the current emergency situation. People with experience in refiner operations, petroleum transportation, and petroleum distribution are available in very limited numbers and are concentrated primarily in the existing Federal regulatory agencies. These are the type of people that are urgently required in the Petroleum Allocation Program.

With respect to the expertise available in State governments, mos of the oil-producing States have a regulatory commission with expertise in production of oil and gas. This type of experience, as with the Federal Government, is not what is needed in the current sistuation. A small number of people employed by the States do possess the needed expertise; however, it is certain that they will be sorely needed by the States to implement their part of the emergency program.

Regarding availability for new employment with the Federal Governm there is an insufficient number of readily available applicants who poss the requisite experience. Federal employment, moreover, is not particularly attractive for a program with an indeterminate future.

In view of the above, it is the considered judgment and finding o the Secretary of the Interior that there is no reasonably available alt tive source for meeting the urgent immediate needs of the Administrator the Petroleum Allocation program for petroleum-industry expertise in the current emergency situation other than individuals currently employed in the U.S. petroleum industry.

ORGANIZATIONAL STRUCTURE

The Office of Petroleum Allocation is centered in Washington, D.C., and operates through a network of 10 regional offices and 50 Federal allocation offices located in each State. Approximately 225 professionals will be required to assist this office in the conduct of its assigned mission. Personnel assigned to this office will be utilized as outlined below.

Washington Office

Administrative Headquarters

(11) Professionals Required. These individuals would be assigned to the immediate staff of the Administrator in a consulting capacity. They should currently be operating at the Vice Presidential level in industry. The following types of individuals will be required:

Special Assistant for consultations on matters concerning the distribution and marketing of petroleum products.

Special Assistant for consultations on matters concerning the supply and transportation of petroleum products.

Special Assistant for consultation on matters concerning the acquisition of crude oil (either domestic production or foreign import).

Special Assistant for consultation on matters concerning the refining and manufacturing capabilities of the petroleum industry to include petrochemicals.

Special Assistant for consultation on matters concerning natural gas production and processing.

Special Assistants for consultation on matters concerning the gas industry. Two Specialists required, one for gas transmission and one for gas distribution.

Special Assistant for consultation on matters concerning the Electric Power Industry.

Special Assistants for consultation on matters concerning the U.S. Coal Industry. Three specialists, coal production, distribution and traffic.

Office of the Director of Operations

(5) Professionals Required.

The Operations Division is that element of the Petroleum Allocation Office charged with the Operational implementation of the program and will therefore be deeply immersed in the management of regional and State activities (through the Federal Allocation Officers) and in the overall national petroleum production, supply, and distribution systems.

To operate expeditiously and efficiently, operations must also have immediately available technical expertise with respect to all phases of the petroleum industry. It is, therefore, essential that five industry specialists be assigned to the operations area having expertise in the following fields: liquidfied petroleum products, middle distillates, gasoline, heavy fuel oil/asphalt and crude oil. The individuals selected should currently be operating as managers in marketing and/or supply and distribution.

Office of the Director of Management and Systems Analysis

(3) Professionals Required.

The following specific functions would be performed by industry personnel in this office:

Advise with respect to the type and availability of data and information needed for program coordination and management control.

Assist in review and analysis of program data, information and statistics gathered on the program operation.

Recommendation and assistance in preparation of memoranda and reports bearing on special needs for efficient program coordination and management.

Technical advice with respect to implementation of decisions on program management needs and their impact on other activities.

These individuals should include: a systems analyst or operations researcher; a computer systems specialist; and a senior company officer for management consulting.

Office of the Director for Plans and Policy

(4) Professionals Required.

The Office of Plans and Policy must serve as a focal point for current responsibilities and future planning in the Administrator's organization. The personnel requested for assignment to this office will have as their principal responsibility the development of plans for extending the allocation program to include crude oil and all petroleum products and the development of rationing programs to the end users. These planning activities will include:

- The preparation of instructions for the regional Federal Allocation Officers and guidance of State officials.
- The development of implementing schedules and programs.
- The close coordination with other government agencies, or specifically, close participation with the Energy Planning Group in the development of practical allocation and rationing plans.

The individuals selected should have had previous planning experience in industry, one individual in crude oil supply, and three others in product supply.

Office of Technical Support

(12) Professionals Required.

The Office of Technical Support will function in an "on-call" status to the Office of Oil and Gas for those general energy matters which come under the overall cognizance of the Department of the Interior (e.g., the Emergency Petroleum Supply Committee, the Secretary of the Interior's Oil Policy Council).

Industry employees would be used in this office only so long as qualified individuals were unavailable from non-industry sources. An exhaustive effort will be made to obtain qualified individuals outside of industry.

In support of the Petroleum Allocation Program, the Office of Oil and Gas will require 12 professionals. This special staff will perform the following functions:

- Monitor the current developments in the petroleum industry.
- Assess the effect of allocation programs and other decisions on the petroleum industry.
- Advise the Director with respect to long-term implications of basic allocation policies and decisions.
- Assist in the development of long-term programs for increasing the domestic supply of petroleum and petroleum products.

In addition, the individuals provided will provide advice with respect to a restructuring of the Emergency Petroleum and Gas Administration to insure that it is structured as necessary to be responsive in the event of an even more critical petroleum-supply situation.

Several of the individuals provided will be assigned to provide advice to OOG with respect to the Emergency Petroleum Supply Committee, which is being activated to deal with international supply-management problems.

Use of Professional Petroleum Industry Personnel in the Regional Offices

(80) Professionals Required.

Considering the present 'extremis' situation that exists in the Regional and State Allocation Offices, it is mandatory that immediate action be taken to provide experienced professional industry people to assist the regular government personnel now assigned. Their services can be used to great advantage in the regional offices because of their knowledge of the petroleum industry, its supply and distribution system, and their contacts throughout the industry. Very few, if any, of the regional personnel now assigned have this requisite technical knowledge.

Current plans for staffing of regional offices calls for a total of 32 professionals and 18 secretarial and administrative personnel. If 8 persons were assigned to each regional office, there would be a ratio of 3 government professionals to 1 industry person.

It is proposed that 8 industry persons be assigned to each regional office and that these persons be designated to fill the specific positions shown below:

Regional Office

Function	Total Personnel Government	Industry	
Director's Office	4	1	(District or Regional Marketing Mgr/Operations Mgr)
Reports and Analysis	6	1	(Operations personnel)
Public Information	3	0	
Administrative Services	5	0	
Case Resolution	12	5	(Supply and distribution personnel)*
Investigation, Compliance and Enforcement	8	0	
Government Liaison	2	1	(Supply and distribution personnel)
	42	8	

*Every effort will be made to relocate industry personnel serving in this capacity in areas other than those in which their petroleum company employers are principal marketers of petroleum.

Specific functions to be performed by the industry personnel are as follows:

Special Assistant to the Regional Director and his Deputy.

Advice with respect to supply availability.

Advice with respect to transportation and distribution of petroleum products.

Technical advice with respect to implementation decisions and their impact on other activities.

Expediting of resolutions by insuring that the most direct and efficient contacts are utilized.

Assistance in the development and analysis of reports required in the program

Assistance in liaison with other government agencies (Federal, State, and local) in matters pertaining to the petroleum industry.

Use of Professional Industry Personnel in the Federal Allocation Offices

(104) Professionals Required.

It is planned that each of the 52 Federal Allocation Offices (one in each State, District of Columbia, and Puerto Rico) be assigned a total of five professionals, three government employees and two from industry.

Each Federal Allocation Office reports to and is managed by the Regional Office covering the State. The State is charged with the expeditious resolution of temporary end-user hardship cases, working in coordination with the Federal Allocation Officers.

Available to the State for such resolution is the State reserve consisting of up to 10% of the oil that comes to rest in the State and is under control of wholesale purchaser suppliers that operate in the State.

To provide timely advice to the States, it is essential that the Federal Allocation Office be intimately familiar with the petroleum marketing and distribution systems in the State. Such expertise is not available from government resources. Further, the need to be immediately effective in the resolution of State petroleum problems makes it essential that industry expertise be immediately available in the form of supply and distribution or marketing operating personnel.

Every effort will be made to relocate petroleum industry personnel serving in this capacity in areas other than those in which their petroleum company employers are principal marketers of petroleum.

Plan for the Use of Experts from Industry as Advisors to the Energy Allocation Planning Task Force

The Energy Allocation Planning Task Force is currently being assembled on a high priority basis. Attachment 1 shows the basic organization of the Task Force. Each of the task groups with responsibility for a particular area will be headed by an experienced government professional, mostly GS-16's, GS-17's, and GS-18's.

Each of these task group chairmen will have management, analysis, and program development skills and experience. These skills will be essential to the success of the Task Force. However, few if any of these individual will have knowledge and experience in dealing with the specific technical and economic aspects of the petroleum industry.

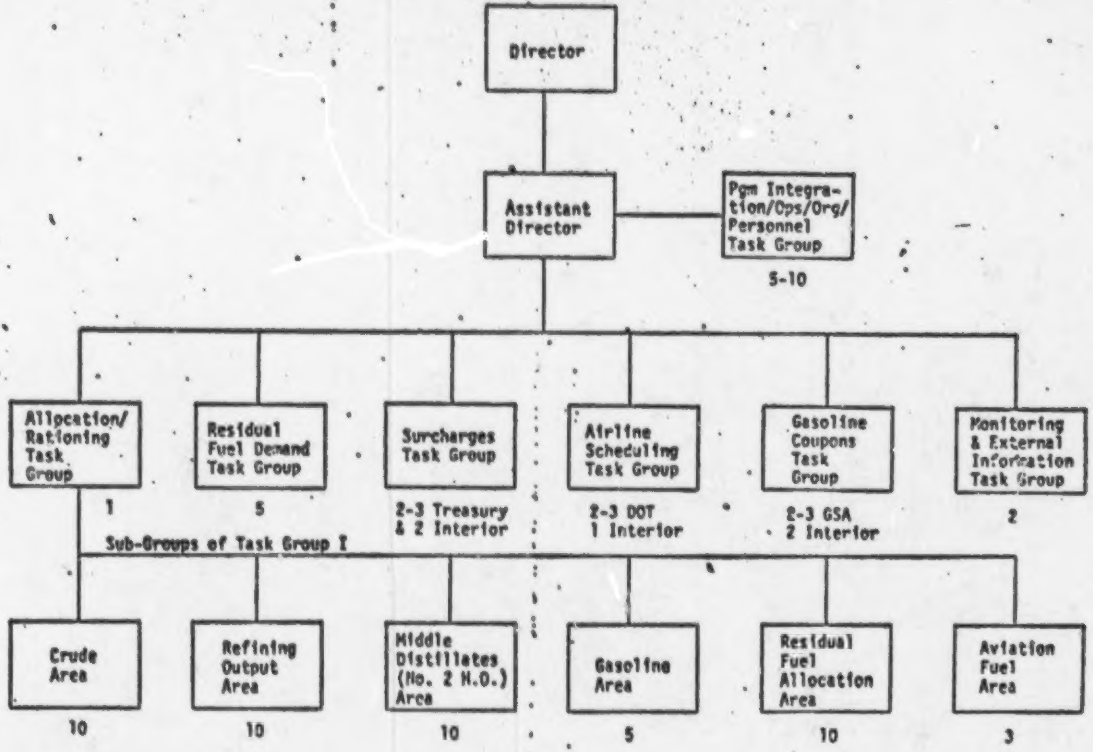
Therefore, we plan to use experts from industry as advisors to the task group chairmen. Each task group chairman will have one or more advisors with knowledge and experience in specific areas of the industry which relate to that group. Attachment 2 shows a list of important areas of expertise needed, the minimum number of individuals needed in each are and the anticipated task groups which they would support.

These advisors will have no direct responsibility for the programs, policies, or procedures being developed by the task groups. They will serve only as a source of specific knowledge and information concerning particular aspects of the industry. The task group chairmen or members o the groups will turn to the advisors for descriptions of industry opera knowledge of technical and facilities data, descriptions of marketing ne works and processes, etc. The advisors will also be useful in supplying substantive review and comments on proposed programs and approaches wher the success of those programs will depend on the specific characteristics of petroleum industry operations.

Detailed working knowledge of the many complex and dynamic aspects of the petroleum industry is really not available except from the industry itself. It is essential that we have the benefit of that knowledge in developing these extremely important programs not only for the industry itself but for the entire economy.

ATTACHMENT 1

The Energy Allocation Planning Task Force
(with rough manpower estimates)


Director
Assistant Director
Pgm Integration/Ops/Org/Personnel Task Group
5-10
Allocation/Rationing Task Group
1
Residual Fuel Demand Task Group
5
Surcharges Task Group
2-3 Treasury & 2 Interior
Airline Scheduling Task Group
2-3 DOT 1 Interior
Gasoline Coupons Task Group
2-3 GSA 2 Interior
Monitoring & External Information Task Group
2
Sub-Groups of Task Group I
Crude Area
10
Refining Output Area
10
Middle Distillates (No. 2 H.O.) Area
10
Gasoline Area
5
Residual Fuel Allocation Area
10
Aviation Fuel Area
3

Attachment 2

Industry Experts to Support
Petroleum Contingency Planning Task Force

Industry experts with knowledge and experience in specific areas of the petroleum industry will be useful as advisors to the specific task groups. In addition to their expertise in specific areas, these individu should, if possible, also have experience in the formulation and analysis of policy alternatives at top management levels.

The following list shows the primary areas of interest and the minim numbers of individuals that would be useful.

Area of Expertise	Number	Task Groups Supported
Crude oil production	1	crude subgroup
Crude transportation	1	crude subgroup
Refining technology	1	refining subgroup
Refining capacities and product mix	1	refining subgroup
Refining economics	1	refining subgroup
Heating oil wholesale distribution	1	middle distillate subgr
Heating oil end-user market (distributors)	1	middle distillates sub
Gasoline wholesale distribution	1	gasoline subgroup
Gasoline end-user market	2	gasoline subgroup gas coupons group
Aviation fuel wholesale distribution	1	aviation fuel subgroup
Aviation fuel end-user market (airlines)	2	aviation fuel subgroup airline scheduling sub
Residual fuel distribution system	1	residual fuel subgroup
Residual fuel power plant technology	2	residual fuel subgroup residual demand group
Petroleum product transportation	3	middle distillates sub gasoline subgroup residual fuel subgroup
Petroleum industry economics	3	monitoring group surcharges group allocation group
Total	22	

Office of the Attorney General
Washington, D.C. 20530

NOV 21 1973

Honorable Rogers C. B. Morton
Secretary of the Interior
Department of the Interior
Washington, D. C. 20240

Dear Mr. Secretary:

You have requested my opinion as to whether the antitrust laws of the United States prohibit the use of petroleum industry personnel as advisers to an interdepartmental group currently being assembled within the Government to be known as the Energy Allocation Planning Task Force, and also to be employed by the Government to become part of the staff of the Office of Petroleum Allocation within your Department.

You have submitted a specific proposal for my review which sets forth the manner in which the petroleum industry employees will function in the Energy Allocation Planning Task Force and the Office of Petroleum Allocation. I am attaching a copy of that proposal to this opinion and predicating this opinion upon the specific representations set forth in that proposal.

I am advised that the personnel which you wish to use as advisers would continue to be retained on the payrolls of the companies of their present employers, would participate in stock and retirement programs with those companies, and might retain other financial ties with the oil companies. I am also informed that the petroleum industry personnel would be employed by the Task Force or the Office of Petroleum Allocation on a full time basis in many instances, although their salaries may be paid or supplemented by their companies. They would serve as special government employees.

Officials of the Justice Department and the Department of the Interior met on November 9, 1973, to discuss an earlier proposal which for the most part has been resubmitted by you in the attached material.

First of all, as I have already pointed out in my opinion regarding conflict of interest, regardless of whether an exemption with respect to the provisions of 18 U.S.C. § 208(a) were to be granted by you under the provisions of 18 U.S.C. § 208(b), any participation by a petroleum industry employee while in Government service as a special Government employee in a particular matter in which he or his company has a financial interest, and is not specifically within the scope of the exemption, would, of course, subject him to the impact of the conflict of interest rules of section 208(a). Since such a situation could also have antitrust implications, by disqualifying himself in any particular situation in which he or his company has a financial interest, a petroleum industry employee can avoid both confict of interest as well as antitrust problems.

The answer to your basic question is in the negative -- that is to say, the antitrust laws do not prohibit the use of industry personnel as advisers within your Department. Having said the foregoing we are obliged to point out that this is different from saying that such personnel will be free of any possible threat of liability from antitrust prosecution. The status of such personnel under the antitrust laws will inevitably depend on the activities in which they engage viewed in light of all relevant circumstances. Moreover, no opinion which I could render could immunize any activities of such employees from treble damage actions brought by private plaintiffs.

Accordingly, while the antitrust laws do not prohibit the use of petroleum industry personnel as advisers within your Department, it is not possible to say that such personnel do not run any risk of being charged with antitrust violations, since a determination of this question would depend upon knowledge of all relevant facts. Thus the question of antitrust liability on the part of any particular employee can only be judged after the fact in the light of all the circumstances surrounding the questioned activity. To eliminate or reduce to a minimum the risk of antitrust liability, each employee should be insulated as far as possible from any duties involving recommending or making decisions concerning matters affecting his particular company.

Sincerely,

Robert H. Bork
Acting Attorney General

COPY

November 16, 1973

Honorable Rogers C. B. Morton
Secretary of the Interior
Washington, D. C.

Dear Mr. Secretary:

You have requested my opinion as to the scope of section 208 of the conflict of interest laws (18 U.S.C. Sections 202-209), as it relates to the employment of petroleum industry personnel whose services will be utilized by an interdepartmental group currently being assembled within the Government to be known as the Energy Allocation Planning Task Force, and also to be employed by the Government to become part of the staff of the Office of Petroleum Allocation within your Department.

You have submitted a specific proposal setting forth the manner in which the petroleum industry employees will function in the Energy Allocation Planning Task Force and the Office of Petroleum Allocation.

First, you point out in the proposal that the Government is currently faced with an emergency situation with respect to the availability of petroleum and petroleum products. You have determined that in the current emergency situation there is an urgent requirement for personnel with petroleum-related expertise and that there is no reasonably available source for meeting the immediate needs for such expertise other than the U.S. petroleum industry itself.

Second, the petroleum industry personnel discussed in your proposal would all enter Government service as "special Government employees" within the meaning of 18 U.S.C. Section 202. That section defines a special Government employee to include an officer or employee of the Executive branch of the United States Government, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis. Needless to say, a good faith determination would have to be made within your Department prior to hiring a particular individual that at the time of hiring the term of employment would not exceed the statutory requirement.

Third, with respect to any such petroleum industry personnel hired by your Department as special Government employees, whether they were to be on the staff of the Office of Petroleum Allocation or the Energy Allocation Planning Task Force, you would inform them specifically of the provisions of section 208 and your Department's related regulations. Furthermore, with respect to any such industry personnel hired by any other Department of the Government, or any other agency thereof, to be part of the aforementioned Energy Allocation Planning Task Force, the head of such other Department or agency employing such industry personnel as special Government employees would give them the same advice.

Turning now to the specific question regarding section 208, it is my opinion that the provisions of 18 U.S.C. Section 208(a) are so broad and all encompassing that they could almost inevitably apply to some or most of the petroleum industry personnel who would become special Government employees. Section 208(a) would, of course, prohibit such employees from dealing with particular matters affecting the financial interest of their own companies. Accordingly, such an employee would be required immediately to disqualify himself from participating in any such matter in any manner.

Moreover, section 208(a) is also applicable in situations where the employee's company is not the only company with a financial interest but is one of many companies with comparable financial interests.

In this connection, it is pertinent to note a Presidential Memorandum of May 2, 1963, entitled "Preventing Conflicts of Interest on the Part of Special Government Employees" (28 F.R. 4539), and now repeated in pertinent part in Chapter 735, Appendix C, of the Federal Personnel Manual. As to section 208, the memorandum states as follows:

> 18 U.S.C. 208. This section bears on the activities of Government personnel, including special Government employees, in the course of their official duties. In general, it prevents a Government employee from participating as such in a particular matter in which, to his knowledge, he, his spouse, minor child, partner, or a profit or nonprofit enterprise with which he is connected, has a financial interest. The section, however, permits an employee's agency to grant him an ad hoc exemption if the interest is not so substantial as to affect the integrity of his services. Insignificant interests also may be waived by a general rule or regulation. Whether an agency should issue a general rule or regulation and, if it does so, what standards it should set are questions which should be resolved by each agency in the context of its particular responsibilities and activities.

> The matters in which special Government employees are disqualified by section 208 are not limited to those involving a specific party or parties in which the United States is a party or has an interest, as in sections 203, 205, and 207. Section 208 therefore undoubtedly extends to matters in addition to contracts, grants, judicial and quasi-jucicial proceedings, and other matters of an adversary nature. Accordingly, a special Government employee should, in general, be disqualified from participating as such in a matter of any type when its outcome will have a direct and predictable effect upon the financial interests covered by the section. The power of exemption, however, may be exercised in this situation if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization. The power of exemption may, of course, be exercised also where the financial interests involved are minimal in value.

It should be noted that the grant of an exemption under the procedures and standards of the Presidential Memorandum does not entirely remove the prohibitions of section 208(a) from an employee. Any participation by an employee in a particular matter in which he or his company has a financial interest, and which is not specifically within the scope of the exemption, would subject him to the impact of the statute.

The exemption standards and the procedure set forth in the second paragraph quoted above are of course available with respect to the industry personnel to be hired as special government employees. Having reviewed the attached proposal and your descriptions of functions to be performed by the special government employees, I see no basis for disagreement with your view that exemptive action with respect to such employees would be proper. But in the final analysis it is the responsibility of the appointing Government officials who have access to all of the relevant facts to determine whether in particular situations an exemption should be provided. It is also their function to choose in given situations between the grant of ad hominem exemptions under section 208(b)(1) or exemptions by general rule or regulation under section 208(b)(2).

Sincerely,

Robert H. Bork
Acting Attorney General

QUESTION 10a: Mr. Vaughan, in your prepared statement today you repeated words used by you before the Appropriations Committee on March 31st and I quote:

> "Government cannot and should not attempt to accomplish the emergency preparedness task alone. To obtain needed industry expertise in planning for and responding to energy emergencies, we are considering revitalizing of the long dormant Executive Manpower Reserves -- the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve and the Emergency Solid Fuels Reserve."

Documents prepared by the Department of Energy regarding the Executive Manpower Reserve refer to the use of the Reserve in the event of Presidentially declared emergencies other than limited or general war, or threats to national security.

As I understand the terms of the Defense Production Act Presidentially declared emergencies are limited to those related to meeting defense needs? Am I correct?

ANSWER: Some form of "defense" nexus is necessary in order to utilize the authorities contained in the Defense Production Act. However, in recent years the Congress has emphasized the role of energy supplies in defense preparedness, and amendments to the Defense Production Act reflect this emphasis. Moreover, the grounds for utilizing the various powers contained in different sections of the Defense Production Act are not uniform. Consequently, the permissibility of utilizing the Executive Reserves under specific circumstances is determined by section 710, which contains the authority for the Executive Reserves.

Two categories of Federal employees may be utilized in Executive Reserve organizations: (1) "Without Compensation" Employees and (2) National Defense Executive Reservists.

Subsection (e) of section 710 authorizes the President to provide for an Executive Reserve for employment "during periods of emergency." This limitation on use of the Reserves may be compared with the statutory conditions for using other Defense Production Act authorities. For example, section 101 concerning priority assistance in contracting, and allocation, does not contemplate the declaration of an emergency before the authorities contained in that section can be used. At the other extreme, section 708 dealing with antitrust protection pursuant to voluntary agreements can be used only on the basis of a Presidential finding "that conditions exist which may pose a direct threat to the national defense or its preparedness programs."

A separate provision of section 710, subsection (b), pertains to "Without Compensation" Employees who may be used in conjunction with a Reserve. Under subsection (b) such employees may be utilized "to carry out the provisions of this Act", without reference to any triggering event; i.e., they may be employed in the absence of any emergency, if such employment is consistent with the Act's purposes.

The purposes of the Defense Production Act are explained generally in its "Declaration of Policy", section 2, which must be viewed in light of changes made therein in 1980. The Energy Security Act, Pub. L. 96-294 (1980), added to Defense Production Act section 106 a designation of "energy" as a "strategic and critical material", and supplemented the Act's Declaration of Policy with the following language emphasizing that both preparedness programs and actions to expand productive capacity and supply to assure the availability of energy supplies, are national defense programs within the scope of the DPA:

> In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure domestic energy supplies for national defense needs. (Amendatory material underlined.)

The Conference Report explained:

> This section amends the "Declaration of Policy" of the Defense Production Act of 1950 to add as one of the Act's purposes U.S. Government responses to foreign actions which could reduce or terminate the availability of strategic and critical materials, and states that "energy" is

to be included in that category.... The "Declaration of Policy" is amended to make it clear that it is necessary and appropriate, indeed essential, "to assure domestic energy supplies for national defense needs." (H. R. Conf. Rep. No. 96-1104, 96th Cong., 2d Sess. 187 (1980))

QUESTION 10b: Are you stating that the Department anticipates activating the Executive Reserve to meet energy situations other than declared national defense emergencies?

ANSWER: Initially, we are revitalizing the Reserves to be available to respond to declared national defense emergencies. We are currently in the process of evaluating other possible uses for the Executive Reserve program, but no decisions have been made at this time. As an example of deliberations on this issue, a draft document showing DOE staff views as to several possible scenarios for using the Reserves was provided to the Committee as Item 12, Attachment A, to the Letter from R. Winkler to R. Grundy, dated April 26, 1982.

DRAFT 4/8
Revised 4/9

DRAFT

SCENARIOS: RESERVES UTILIZATION

INTRODUCTION

The Federal Government has a wide range of authorities to deal with energy emergencies. The Defense Production Act of 1950 (P.L. 81-774, 50 U.S.C. App. 2061, et. seq.) provides authority to allocate oil supplies for national defense purposes should it become necessary to do so during a major disruption. Executive Order 11490, as amended, assigns emergency preparedness functions to Federal agencies dealing with petroleum, natural gas, solid fuels, and electric power. Under those and other authorities, the Department of Energy has, and proposes to use, three Executive Manpower Reserves, as follows:

- o Emergency Petroleum and Gas Administration (EPGA)
- o Emergency Electric Power Administration (EEPA)
- o Emergency Solid Fuels Administration (ESFA)

In coping with energy emergencies, the Reserves will provide a role for both energy producers and consumers as well as for State and local governments and others. The purpose of this paper is to lay out scenarios, with the potential responsibilities for each of the Reserves.

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I. BUSINESS AS USUAL

Description. This scenario applies to normal times and presumes no critical shortage of energy, and no public, political, or economic pressures for Federal action. The marketplace is operating as usual. Reservists would be recruited and enrolled, but their role would be limited to training and normal communication with officials in the Office of Energy Emergencies of the Department of Energy (DOE).

	EPGA	EEPA	ESFA
A. Purpose for Utilization	Planning and Program Development	Same as EPGA	Same as EPGA
B. Authorities for Activating or Involving the Reserves	The Defense Production Act of 1950, et. al.	Same as EPGA. Also, Without Compensation (WOC) individuals are already Government employees; a decision to call them into service is all that is necessary.	Same as EPGA
C. Activities	Organization, training, and communications	Same as EPGA	Same as EPGA
D. Constraints	Minimal. All of the above could subsume "strawman" emergency meetings and planning activities.	A call-up may not be in conformance with WOCs' understanding of their agreement to serve.	Same as EPGA
E. Alternatives	The Defense Production Act also authorizes a voluntary agreement committee, a mechanism by which oil companies can advise and confer with one another and with the Government within antitrust constraints.	Voluntary agreement committee has been used relative to foreign oil supplies, not domestic nor other energy sources, so this mechanism may not be available.	Same comment as EEPA

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II. INTERNATIONAL TENSIONS

Description. This scenario assumes a condition of diplomatic or military deterioration so serious that U.S. military reserves are called up, the draft is reinstated, and U.S. military/war production is given top national priority.

	EPGA	EEPA	ESFA
A. Purpose for Utilization	National Defense Executive Reservists (NDERs) probably would be activated to meet special mobilization needs for oil and natural gas.	WOCs probably would be activated to insure the most effective supply and use of electric power resources, including general direction of field operations, load and capability studies and estimation of attack effects.	NDERs probably would be activated to insure meeting special mobilization needs, to monitor solid fuel supplies, to assist in developing coal substitutes, and alternative transportation means and routes.
B. Authorities for Activating or Involving the Reserves	DPA of 1950 The Secretary would request authority from the Director of Federal Emergency Management Administration (FEMA), the President's agent, to activate fully or partially.	Same as EPGA	Same as EPGA
C. Activities	The EPGA would be activated in whole or in part, for supply assessment, fuel switching, drawdown and utilization of the Strategic Petroleum Reserve & Naval Petroleum Res. & to encourage conservation. (Also security measures.)	The EEPA would be activated to prepare for relocation; to protect vital records; to institute increased security to protect facilities; to assure communications; assure contact with officials; and to activate public information plan.	The ESFA would be activated to monitor coal production, use, stockpiling, and transportation; to recommend use of environmental waivers and fuel switching if appropriate; and to implement public info. plan (Also security measures.)

II. INTERNATIONAL TENSIONS (CONTINUED)

	EPGA	EEPA	ESFA
D. Constraints	Assuming activation, none.	Same as EPGA	Same as EPGA
E. Alternatives	Activated or not, the Reserves could be the mechanism through which the Secretary seeks advice from experts as individuals. These citizens undoubtedly would see it as in their interest, as well as the national interest, to provide advice and assistance. Consultation between the Secretary and the presidents of major oil companies would be imperative. WOCs also could be so used. A voluntary agreement would be an alternative with minimum marketplace interruption. The Secretary and the Office of Management and Budget could expedite establishment of an advisory committee if needed.	Same as EPGA	Same as EPGA

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III. OIL EMBARGO

Description. The most significant energy emergencies the United States has faced to date have been embargoes and other interruptions in the supply of imported oil. The most serious scenario assumes a complete cut-off of imports, roughly 3 million barrels per day, or approximately 40 percent of total normal supply of crude oil. The consequences could be drastic, especially if the embargo were prolonged, i.e., two months or more. The uncertainty as to when it would end, how, and on what terms, would have to be considered in contingency planning.

	EPGA	EEPA	ESFA
A. Purpose for Utilization	Same as II. International Tensions. Also for coordination of voluntary or mandatory programs in effect at the time.	Same as EPGA	Same as EPGA
B. Authorities for Activating or Involving the Reserves	Same as II. Also if the President declared a national emergency, it is probable that the NDER units throughout the Executive Branch would be activated.	Same as II. WOCs also could be assumed to be needed and called up.	Same as EPGA
C. Activities	Reservists first would assess the situation. Preplanning, program development, training, and "strawman" emergency preparedness activities should permit them to make this assessment automatically or on notification. Activated Reservists would be sworn in as regular or WOC employees. Faster action may not be imperative because of the supply line lag. Reserves could manage SPR drawdown. Public information.	Same as EPGA, with obvious exceptions. EEPA WOCs also would advise on the status of oil fired generating stations and power wheeling capabilities for appropriate regions. Also would be heavily involved in public information activities.	Same as EPGA and EEPA, with obvious exceptions. Would be heavily concerned with coal distribution problems.

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III. OIL EMBARGO (CONTINUED)

	EPGA	EEPA	ESFA
D. Constraints	Conflict of interest and antitrust, potentially. Agreement to serve is for declared national emergency.	Same as EPGA	Same as EPGA
E. Alternatives	See II. E. International Tensions. Same alternatives could apply here.	Same as EPGA	Same as EPGA

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IV. NATURAL DISASTEPS

Description. This scenario embraces major natural disasters of all types, but earthquakes are the most likely type in which Reservists might be used. For an earthquake, it assumes a series of major events (a) along the West Coast's major fault lines and affecting California, Oregon, and Utah or (b) a major (8.5+) earthquake in the Middle West (epicenter in northeast Arkansas) affecting a large area (perhaps with a radius of ± 250 miles.

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	EPGA	EEPA	ESFA
A. Purpose for Utilization	Assistance to FEMA and the States; restoration of essential public services as soon as possible; training; and public information. An effective EPGA could develop an assessment of the situation more promptly, authoritatively, and reliably than anyone else.	Same as EPGA. In addition, EEPA has valuable experience because the utility industry routinely deals with emergencies including disasters. EEPA also could expedite power wheeling, and could be helpful to the Office of Energy Emergencies for damage assessment and recovery advice.	Same as EPGA and EEPA. Also could be helpful with information and advice on coal stockpiles, alternate transportation routes, public information; and environmental effects of coal autstitutes. If called upon, could implement Sec. 110 waivers to Clean Air Act to allow burning high sulfur coal, and Sec. 2 of Energy Supply and Environmental Coordination Act ordering burning of coal where it can be done. Also could effect fuel switching by coal allocation.
B. Authorities for Activating or Involving the Reserves	A Presidentially declared emergency with specific direction to the Reserves to participate. Absent that, only role would be assessment, analysis, advice, and training.	Same as EPGA	Same as EPGA

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IV. NATURAL DISASTERS (CONTINUED)

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	EPGA	EEPA	ESFA
C. Activities	See IV. A., Purpose for Utilization, above. If activated by the President, the White House or FEMA would direct activities to be undertaken. An advantage of having a Reserve like this is that it is regionalized, and Regional portions only might see used.	Same as EPGA. The regional structure might make EEPA especially useful. A tornado and flood might throw a cordon sanitaire around a state, disrupting power lines. WOCs could work with State and regional utilities and officials to provide alternate routes. Again, only WOCs in the Region might be needed. Information gathering and monitoring might be the extent of their duty.	Same as EPGA. The regional structure could be a significant advantage. A tornado and flood in an Appalachian coal state might require expertise in transportation from the affected region.
D. Constraints	NDERs might be reluctant to serve, absent a declared emergency.	Same as EPGA. Plus, WOCs might be reluctant to provide data, absent a declared emergency.	Same as EPGA and/or EEPA.
E. Alternatives	Same as II. E., International Tensions.	Same as EPGA	Same as EPGA

V. WAR

Description. This scenario is broad, ranging from a limited, undeclared war involving the United States (II. International Tensions assumes that the U.S. is not involved in the event, but the difference is more of degree than of kind) to a general war declared by the President, with call-ups of all military, quasi-military, and other national Reserves, including the National Defense Executive Reserves.

	EPGA	EEPA	ESFA
A. Purpose for Utilization	As stated under II, NDERs probably would be called up in the event of international tensions, and activated to meet special mobilization needs for all forms of energy. In a limited war, the extent of involvement would vary. No special operations by these kinds of Reserves were needed for the war in Vietnam, but a major program was required for Korea because the production of aviation gasoline necessitated facility construction. In Korea, claimancy was a major need. In any degree of involvement in international tensions or war, public information would be a major responsibility of the Reserves.	Same as EPCA	Same as EPCA

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V. WAR (CONTINUED)

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	EPGA	EEPA	ESFA
B. Authorities for Activating or Involving the Reserves	The clearest mandates of all, especially the DPA, the charters of the three Reserves, the Reservists' commissions, and, probably one or more Presidential declarations and Executive Orders.	Same as EPGA	Same as EPGA
C. Activities	Formulate and coordinate supply programs; act as claimant for the respective resource industry to other Government agencies for essential support and resources; coordinate and direct the allocation and distribution of applicable energy resources; establish and maintain communications with industry, other Government agencies, energy users, and the public.	Same as EPGA	Same as EPGA
D. Constraints	None foreseen in wartime.	Same as EPGA	Same as EPGA
E. Alternatives	" " " "	" " "	" " "

QUESTION 10c: Might the Emergency Executive Reserves be used in national defense emergency which is not "declared" or in a crisis which is less serious than even an undeclared national defense emergency?

ANSWER: The Department of Energy has not yet determined whether the Reservists might be used in this manner, but is currently in the process of studying this issue.

QUESTION 10d: Would the closing of the Straits of Hormuz be considered a national defense emergency?

ANSWER: The determination of what constitutes an emergency sufficient to warrant activation of Executive Reservists will likely depend on a wide number of circumstances at the time of the event. While the Department of Energy will have an input into the decisionmaking process for making such a determination, in the final analysis the response to this question must necessarily depend on the decision at the time by the President.

QUESTION 10e: Would the 1973 Arab oil embargo be considered a national defense emergency?

ANSWER: No national defense emergency was declared in 1973.

QUESTION 10f: Would the reduction in oil supplies resulting from the Iranian revolution be considered a national defense emergency?

ANSWER: No.

QUESTION 11: Don't you resort to Executive Reserves when you want to create a centrally planned economy for a wartime footing? Why would you adopt such a comprehensive intrusion on the free market in the event of an oil supply interruption, assuming you had the authority to activate the Reserves in such a situation?

ANSWER: It is not necessary to utilize the Executive Reserve program in an intrusive manner. Depending on the severity of the situation, the Executive Reservists can be utilized for a wide variety of purposes, in a wide variety of ways. The DOE staff presentation of exemplary scenarios, referred to in the answer to question 10, illustrates this.

The reliance on the free market and the use of the Reserve programs (or other similar programs involving the private sector in energy emergency preparedness activities) are not contradictory; indeed, they fully complement one another. Having a cadre of experts on various energy matters available to provide advice and assistance to the Federal Government will assist in ensuring the ability of the free market to operate smoothly in an emergency situation.

QUESTION 12a: You have placed emphasis on use of Executive Manpower Reserve. In response to a question for the record at the Appropriations Committee on the need for additional statutory authority, you stated that:

> "While there has not been a final judgement on this issue, it appears that effective use of the reserves by DOE would be assisted by new or amended legislation dealing with the subjects of conflict of interest, antitrust and, perhaps, advisory committees. Specific proposals dealing with the Defense Production Act, the Department of Energy Organization Act, and the U.S. criminal code, among others, are being examined by DOE with the Federal Emergency Management Agency (FEMA) and the Emergency Mobilization Preparedness Board (EMPB).

When do you expect this review to be completed?

ANSWER: We hope to complete this review by September 1982.

QUESTION 12b: Are the issues you raise general to the Executive Manpower Reserve, or are the issues specifically related to the Department of Energy?

ANSWER: We cannot be certain about this until the completion of the review.

QUESTION 13a: I understand that, under current law, the anti-trust laws and the conflict of interest laws applicable to government regular and special employees, as well as those applicable specifically to employees of the Department of Energy, are serious impediments to the use of the Emergency Executive Reserves.

Would you please describe how these laws would apply to the Emergency Executive Reserves?

ANSWER: Staff of the three energy Executive Reserve organizations will consist in substantial part of active industry personnel, utilized pursuant to section 710 of the Defense Production Act. In order to provide the necessary manpower to achieve the purposes of the Defense Production Act, section 710 permits the President to temporarily employ as Federal employees persons who possess outstanding experience and abilities, and whose skills are not otherwise obtainable. There are two categories of these employees, "Without Compensation" Employees (WOC's) authorized by subsection (b) and National Defense Executive Reservists (authorized by subsection (e)).

Persons appointed as Special Government Employees Serving Without Compensation under subsection (b) often are industry employees who, with the permission of the companies in which they are employed, can be utilized by the employing Federal department or agency to carry out the provisions of the Defense Production Act, even though they may continue to be paid by their companies. Persons serving as WOC's are, so far as possible, to be appointed to advisory or consultative positions only (as distinguished from decision-making positions); however, WOC's may be appointed to decision-making (but not policy-making) positions if they are found to possess outstanding experience and ability not obtainable on a full-time, salaried basis. It is not necessary to have an emergency before an agency can employ its WOC's and they can be employed for a variety of pre-emergency tasks, e.g., assisting in the planning function, providing counsel and assistance in conducting exercises or seminars, assisting state and local officials to develop emergency preparedness plans and programs, etc. These individuals are obliged to submit necessary papers for security clearance purposes and also are required to execute financial interest statements which are published in the Federal Register; any changes in such statements must be reported at regular intervals, and are made a matter of record in the Register. All financial interest statements must meet the requirements of the Defense Production Act.

Persons from either the civilian economy or from the Federal Government may be appointed to the Executive Reserve under subsection (e) to be available for employment in executive positions during any period of emergency requiring their activation. Prior to activation, non-Federal employee members of the Reserve may participate in orientation and training only, and thus cannot perform the various pre-emergency tasks which may be performed by WOC's. However, individuals can be both members of a Reserve and WOC's. When activated, the Reservists may become either paid employees of the Government, or can serve as WOC's. As their use is not limited to the achievement of the purposes of the DPA, reservists may be activated as regular or special Government employees to serve non-DPA related purposes. There are not restrictions on the use of Reservists in decision-making positions (as opposed to the primarily advisory or consultative role of WOC's, unless the WOC's have been appointed to decision-making positions on the basis of the finding described above) if they have been activated as regular Government employees.

The employment of these persons to advise Federal officials in emergencies or to perform other duties, and their use in advisory or consultative roles prior to an emergency, are constrained by the conflict of interest laws applicable to Federal employees. There are two types of conflict of interest laws which currently are applicable to all WOC's and Executive Reservists. The first are the Federal criminal statutes covering conflicts of interest, set forth in 18 U.S.C. sections 202-209; the second are the financial disclosure requirements of 5 U.S.C. section 208 which imposes a fine of $10,000 and/or a prison term of as much as two years upon an employee, including a special employee of the Federal Government, who participates (including rendering advice) in a matter before the Government in which he, his spouse, minor child, partner, an organization in which he is an officer, partner, employee or an organization which whom he has an arrangement concerning employment, has a financial interest. Most WOC's are paid employees of their firms even while they are functioning as special Government employees; they therefore are prohibited by this provision from advising on matters in which their companies have a financial interest. Activated civilian Reservists face similar problems even if they assume salaried positions, as presumably they would have pension rights or arrangements to return to their former employers. This prohibition is the most significant constraint on the use of WOC's and Executive Reservists during emergencies.

In addition, the close cooperation of industry officials required by these programs may expose them and their companies to antitrust risks based on allegations of cooperative company actions, e.g., actions which affect markets or prices.

In the past the conflict of interest and antitrust problems have been of sufficient concern as to effectively prohibit the use of these special employee organizations. For example, in response to the oil embargo of 1973, the Department of the Interior attempted unsuccessfully to activate industry members of the Emergency Petroleum and Gas Administration. Official documentation and reactions by the press to the proposed action demonstrated that the conflict of interest and antiturust questions became paramount considerations, preventing the activation plan from being implemented.

Initially, section 710 provided an exemption from the Federal conflict of interest provisions for WOC's and Reservists, but when the Federal conflict of interest provisions were recodified in 1963, section 2 of the recodification act, Pub. L. 87-849, made the exemptions inapplicable. Subsequently enacted additional requirements such as the conflict of interest provisions applicable to Department of Energy employees, and the Federal Advisory Committee Act, Pub. L. 92-463, have increased the uncertainty as to whether the WOC's and Reservists can be used effectively without new legislation.

It arguably is possible for WOC or an activated Reservist to provide advice to Federal officials or perform duties without violating the conflict of interest provisions and antitrust laws by avoiding participation in any decisions affecting a firm in which he holds a financial interest (including the firm employing him). However, as a practical matter it will be difficult to fully utilize the services of industry personnel during an energy crisis in a manner which assures such avoidance. For example, in an electrical emergency, the conflict laws could preclude the use of a knowledgeable WOC utility employee whose advice would be essential to a prompt and successful resolution of the situation. Moreover, industry has shown itself to be extremely sensitive to the risks created by the conflict of interest and antitrust laws.

QUESTION 13b: Does the Adminstration intend to ask Congress to exempt the Emergency Executive Reserves from the anti-trust laws and conflict of interest laws?

ANSWER: No decision has been made by the Administration as to whether to seek additional legislative authority with respect to the Executive Reserve program.

QUESTION 13c: Specifically, what is the Administration's proposal in this regard and when will it be sent to us?

ANSWER: See response to question 13b above.

QUESTION 14a: Both the DOE and FEMA have expressed serious reservations to my staff about the legality of using the Emergency Executive Reserves in situations other than Presidentially-declared national defense emergencies of a military nature.

What role does the DOE envision for the Emergency Executive Reserves in a petroleum disruption that is not a declared national defense emergency such as:

(1) An interruption of 1-2 million barrels per day of U.S. oil imports which is not related to military needs?

(2) A domestic natural disaster like an earthquake?

ANSWER: The use of the Executive Reserve program for other than Presidentially-declared national defense emergencies has not been decided upon, and is currently under review, along with a variety of other possible mechanisms for involving the private sector in energy emergency preparedness activities.

QUESTION 14b: Does the Administration intend to ask Congress to provide such authority? If so, when? Specifically, what would the Administration's proposal be?

ANSWER: No decision has been made by the Administration as to whether to seek additional legislative authority with respect to the Executive Reserve program.

QUESTION 15a: A document supplied to my staff describes the functions of the Emergency Executive Reserves in a declared national defense emergency to include: (1) formulating, coordinating and implementing energy support programs; (2) representing energy supply industries before Federal agencies to obtain critical resources; (3) helping to allocate and distribute energy resources; and (4) maintaining communications among energy industries, energy consumers, and Government agencies.

The formulating of energy supply programs sounds like the Reserves would actually be principals in setting national policy for national defense emergencies. Is it the Administration's intention to turn over the management of energy emergencies to the Emergency Executive Reserves in a declared national defense emergency?

ANSWER: The Administration has no intention of "turning over the management" of energy emergencies to the Reserves. The intention is to utilize private sector expertise to supplement the Government's handling of energy crises. Indeed, "Without Compensation" Employees cannot be placed in policy-making roles. Reservists who have been activated as fully paid Government employees properly can be involved in policy-making.

The roles actually to be played by the Reserves remain under study. No final decisions have been made on these points, and the entire Executive Reserve issue is currently under review in the context of an overall program of involving the private sector in energy emergency preparedness activities.

QUESTION 15b: Material supplied to the Committee said that the Reserves would be used for "formulating, coordinating, and implementing energy supply programs." Do you have any intention to use them to set policy?

ANSWER: We have answered this question above. Of course, the basic responsibility for establishing energy policy rests with the Secretary of Energy, in conjunction with other Cabinet Officers, and under the direction of the President. We have no plans to alter that procedure.

QUESTION 15c: What would these Executive Reserves furnish you that advisers and consultants would not?

ANSWER: "Without Compensation" Employees may serve as advisers and consultants. However, during energy emergencies there may be a need for industry personnel to make their expertise available in an operational capacity. This need can be met by "Without Compensation" Employees placed in operational positions or by Reservists who have been activated as paid Government employees. Advisors and consultants also may be utilized as part of the Administration's strategy for dealing with energy emergencies, as may advisory committees and other sources of private sector assistance. However, they are not a substitute for expert industry personnel who can function in a operational capacity.

QUESTION 16: One of the documents provided to the Committee is the "Emergency Petroleum and Gas Administration Management Review" dated November 9, 1981, which states in Appendix E, page 3, that oil supply disruptions from major foreign oil exporting countries could lead the Secretary of Energy to trigger partial activation of the Reserves even in a non-wartime situation.

Is that your intention?

ANSWER: As discussed above, the use of the Reserves is a matter which is currently under study, and no decisions have been made by the Department of Energy. Whether it would be possible or even desirable to use the Reservists in the manner stated above cannot be determined at this time.

QUESTION 17: In 1973 during the Arab Oil Embargo, didn't the oil industry (API) oppose activation of the Executive Manpower Reserves for the propane allocation program? Wouldn't they likely oppose it again? As these are volunteers, what is the chance you will get them in a non-wartime emergency?

ANSWER: The Department of Energy has found considerable interest among all sectors of our economy and society in being involved in energy emergency preparedness activities. Obviously, the willingness of any key group, such as the oil industry, to participate in a particular program will have an impact upon the eventual determination whether or not to rely upon that program, or to develop other programs. For this precise reason we have sought assistance from the Georgetown University Center for Strategic and International Studies, which will sponsor at least three workshops (the first one scheduled for June 7, 1982) to study the mechanisms which might be appropriate for involving private sector groups in various activities in this area.

QUESTION 18: Also, Mr. Vaughan, your prepared statement today repeated your earlier words that:

> "The Reserves could provide a role for both energy producers and consumers as well as for State and local governments, financial institutions, and other businesses, on a volunteer basis, without establishing a permanent bureaucracy."

Your words suggest the use of the Manpower Reserves on a "voluntary basis". What do you envision?

ANSWER: Any involvement by industry personnel, whether as "Without Compensation" Employees or as Reservists, would be on a voluntary basis.

QUESTION 19: A memo dated September 21, 1981, on "DOE Headquarters Staff Meeting with Emergency Electric Power Administration (EEPA) Field Organization" complains that Electromagnetic Pulse (EMP) training and course development should be given a lower priority until the field organizations attain a state of general readiness.

EMP is the product of atomic blasts, is it not? To what extent is your Executive Manpower Reserves activity really part of the Administration's efforts to bolster our civil defense plans for nuclear war?

ANSWER: This is not the case. The development of the National Defense Executive Reserve program at the Department of Energy, under the general supervision of the Federal Emergency Management Agency, has been, and will continue to be, part of the Administration's overall effort to improve the emergency preparedness capability of the nation.

Question 20: If participating companies are compensated financially under "fair sharing," on what basis will the amount of compensation be computed?

Answer: DOE is currently studying the need for mechanisms which would backstop companies' voluntary offers when the IEA Emergency Sharing System has been activated, and which would reduce or share equitably any prospective individual company losses incurred as a result of participation in the IEA Emergency Sharing System. If a need for such a mechanism is identified, DOE will seek to design a program that ensures that the voluntary and mandatory sharing systems work as effectively as possible and, at the same time, prevents any U.S. companies from being disproportionately disadvantaged by their participation in the IEA system. A system of financial compensation is only one of a number of options that might be considered in the development of a fair sharing program, and it is premature to address the specifics of that option.

Question 21: Does the IEA's Emergency Sharing System conflict with the EEC's and NATO's Emergency System? Is there a potential problem ?

Answer:

IEA/EEC Interface

There is no conflict between the IEA and EEC Systems, and no serious problems are seen in their interaction.

The IEA and EEC both have emergency sharing systems. Both systems involve demand restraint, emergency stock requirements and oil sharing provisions, although these are somewhat differently defined in each system . For example, under the EEC system, members are required to hold stocks equal to 90 days of the prior year's consumption compared to an IEA requirement based on 90 days of prior year imports. The main difference between the IEA and EEC systems results from the use of oil sharing concepts in the IEA and of an energy sharing concept in the EEC. The EEC redistributes among EEC countries the oil saved through the substitution of other energy sources for oil use, also taking into account mandatory oil demand restraint obligations.

In 1980, the IEA Governing Board adopted an IEA/EEC interface in order to eliminate any operational conflict between the IEA and EEC systems. The interface is an integral part of the IEA Emergency

Sharing System. Since the first phase of the EEC System is a 2-month stage of demand restraint only, the interface is solely for Phase II of the EEC system, with consideration of an interface with Phase III of the EEC system deferred since the details of this phase have not been specified.

The interface is designed to ensure that EEC reallocations, including oil reallocated to or from France (which is not an IEA member), have no impact on the allocation rights and obligations of non-EEC members of the IEA. The interface will also have no impact on the Allocation Rights or Obligations of the EEC countries as a group within the IEA, and it does not change the role of industry (ISAG, Reporting Companies) participating in IEA activities. The EEC members in the IEA will share among themselves any oil which moves between them and France under EEC arrangements.

The Relationship between the IEA and NATO Systems

The IEA and NATO Systems are fully compatible. The purpose of the NATO System is to satisfy the defense needs of participating countries whether or not a civil oil emergency exists. In the event that NATO oil supply activities are activated while the IEA Emergency Sharing System is in operation, NATO activities will be carried out so as not to disrupt IEA activities. NATO has just completed a review of the potential problems of double counting of military and civilian stocks, which could be an area of potential conflict between the two systems. At the April meeting of NATO's Petroleum Planning Committee, NATO nations agreed not to report military stocks to the OECD, or to indicate what portion of stocks which are reported to the OECD represent military stocks.

With respect to oil company participation in the NATO System, we note the absence of antitrust or breach of contract protection comparable to that for participation in the IEA Sharing System. This is in part because section 708A(o) of the Defense Production Act, as amended in 1975 in conjunction with legislative enactment of the Energy Policy and Conservation Act, makes the section 708 antitrust defense unavailable for implementation of a voluntary agreement in furtherance of a "treaty or executive agreement to which the United States is a party or to implement a program of international cooperation between the United States and one or more foreign countries."

Question 22:	Does the IEA's definition of emergency stocks exaggerate emergency stock levels?
Answer:	The IEP Agreement requires IEA member countries to maintain emergency reserves sufficient to sustain 90 days of net imports in the prior calendar year. The categories of oil stocks which can be credited to meet a country's emergency reserve requirement include most working stocks minus a 10 percent deduction to eliminate those stocks determined to be unavailable even during the most severe emergency. Since it includes a large proportion of working stocks, those needed to meet minimum operating levels and seasonal needs, the current IEA definition of emergency stocks does overstate true emergency reserves. For instance, minimum operating requirements have been estimated to be about 45 days of consumption on average--possibly higher for larger countries like the United States. It should be noted, however, that many IEA countries (including the United States) hold far in excess of the official IEA reserve obligation. Due to the difficulties which have been encountered in defining emergency reserves, the United States has instead sought to encourage increases in overall reserve levels. In this regard the IEA countries in December 1980 agreed to make efforts to use 1980 in calculating the reserve obligation,

so that recent import declines would not erode the reserve coverage. This is in addition to the reserve obligation contained in the IEP. Also, the IEA Governing Board, with the support of the United States, has asked the IEA Standing Group on Emergency Questions to study the adequacy of IEA emergency reserves in general.

Question 23: Do producer contract destination restrictions potentially present a problem for IEA's Emergency Sharing System?

Answer: Last year the IEA Secretariat conducted a study on the impact of producer-imposed destination restrictions on the Emergency Sharing System. The study concluded that destination restrictions may be troublesome, but that they should not pose a real danger for the IEA Sharing System. Widespread destination restrictions would delay re-balancing and create large additional transportation costs, however.

The IEA Standing Group on Emergency Questions examined the Secretatiat's paper and, while concerned that the paper might be overly optimistic, was satisfied that the danger of destination restrictions does not give cause for serious doubt about the viability of the Emergency Sharing System

Question 24: Does the forthcoming IEA Emergency Sharing System test scheduled for the Spring of 1983 encompass price problems?

Answer: The IEA Standing Group on Emergency Questions (SEQ) has formed a Design Group for the fourth Allocation Systems Test (AST-4), chaired by the United States and consisting of representatives of six IEA governments and six IEA Reporting Companies, to conduct the preparations for the test and set test parameters. The Design Group is focusing primarily on whether to test price in AST-4 and, if so, on what pricing standard and test procedure to follow.

We expect that the Design Group will be able to make recommendations to the SEQ on whether price should be included in AST-4 by the end of June.

Question 25: Is the IEA considering development of a coordinated stock management policy?

Answer: The IEA is not now considering a coordinated stock management policy. Various stock sharing and stockpooling schemes were debated at length during the course of the discussions within the IEA during 1981 with respect to possible "sub-trigger" measures. These schemes were opposed by the United States and other IEA countries. The United States strongly opposes the formal sharing of stocks. We believe a commitment to such sharing would prove to be a disincentive to member countries to provide for the security of supplies to meet the needs of their individual economies.

A few IEA member countries do not share our view on stocks. Consequently, we have agreed that the IEA's Standing Group on Emergency Questions study this issue and report back to the IEA Governing Board within the current year. The study will address, *inter alia*, the adequacy of IEA stock levels and the role of stocks in the supply system.

The United States is a strong advocate of high levels of strategic oil stocks for use in the event of severe disruptions. We are continually urging our IEA partners to increase their reserve coverage for this purpose. However, we believe that the use of such reserves should be at the discretion of individual national governments to meet the needs of their own economies and not mandated or predetermined by a centralized body or scheme.

Question 26: On page 3 of Assistant Secretary Thomas' statement he states that,

> "Market price effects may operate to achieve this level of demand restraint in the United States. In addition, the United States has adequate statutory authority for various demand restraint activities."

a. What statutory authority is being referred to?

b. What types of activities could be conducted under that authority?

c. Would these activities require oil company participation?

Answer: a. Statutory authority for demand restraint activities currently exists in the Energy Policy and Conservation Act, section 202 of which provides for establishment of energy conservation contingency plans imposing reasonable restrictionson the public and private use of energy; the Emergency Energy Conservation Act of 1979, which provides in Title II that upon the declaration of a severe energy supply interruption, the President may establish conservation targets for the Nation and for each State, in terms of a percentage reduction of energy use from a base period; and the Trade Expansion Act of 1962, section 232(b), which allows the President to "take such action, and for such time, as he deems necessary to adjust the imports of" petroleum, if he finds that oil imports threaten the national security.

b. Under these authorities, the President could impose such measures as a building temperature restriction plan, a public information program, or minimum fuel purchase restrictions. He also is empowered to impose fees and/or quotas on oil imports.

c. Participation of oil companies would be required either directly, as in the case of oil import fees or quotas, or indirectly, in such measures as a public information program, depending upon which activities were selected for implementation.

Question 27: On page 6 of Assistant Secretary Thomas' statement he states that,

"As the IEA plans to rely primarily on market mechanisms, reinforced if necessary by certain government measures ..." etc.

a. What is meant by "primarily"?
b. What is meant by "reinforced if necessary"?
c. What is meant by "certain government measures"?
d. How would it be determined when to rely "primarily on market mechanisms, and when to intervene?
e. How would it be determined what type of "government measures" to implement?

Answer: a. In the context of the December 10 Decision, "to rely primarily on market mechanisms" means that the forces of supply and demand, not mandatory international allocation among IEA members, will be looked to for coping with sub-trigger situations and that the market will be given an opportunity to work with as little intervention by governments as possible.

b. "Reinforced if necessary" means that it is recognized that international problems of price or supply may develop that are beyond the capacity of the market to address promptly, and that the IEA member countries may take steps to ameliorate those problems without attempting to preempt basic market forces.

c. "Certain government measures" as defined in the Decision includes actions taken by governments in the past, such as:

- discouragement of abnormal spot market purchases or other undesirable purchases;
- lowered consumption;
- short-term fuel switching;
- high levels of indigenous production;
- stocks and stock policies;
- informal efforts to minimize and contain the effects of supply imbalances.

d. Decisions concerning government measures during a sub-trigger situation will depend on the particular circumstances at that time and cannot be predicted with precision. The Governing Board decision established a market monitoring system to provide early warning of supply difficulties and committed IEA members to consult with each other on appropriate measures.

Actual IEA Governing Board decisions would follow such consultations and would require unanimous approval by the IEA Governments present and voting.

e. The particular "government measures" appropriate to a sub-trigger situation will depend upon circumstances at that time and would require unanimous approval by the IEA Governing Board.

Question 28: What types of activities could the oil companies participate in, under authority of section 251 of EPCA, short of a 7 percent trigger being reached?

Answer: None. Section 251(a) of the EPCA provides that "(t)he President may, by rule, require that persons engaged in producing, transporting, refining, distributing or storing petroleum products, take such actions as he determines to be necessary for implementation of the obligations of the United States under Chapters III and IV of the International Energy Program insofar as such obligations relate to the international allocation of petroleum products. . . ."

Since the allocation provisions of the IEP would only be in effect if the IEA 7 percent trigger finding had been made to activate the IEP Sharing System, section 251 provides no authority for actions taken short of such activation.

Question 29: Following adoption of the December 10th Decision by the IEA the United States issued a statement which you quoted that "The Decision establishes a basis for future IEA consultations, and I emphasize consultations, in the event of a subtrigger supply disruption. However, it does not commit IEA countries in advance as to the specific actions which they might take in such circumstances."

The question is not whether the commitment is in advance but the question is whether the IEA has the ability to require the United States to take mandatory actions in subtrigger situations.

For example, in testimony before the House Subcommittee on Fossil and Synthetic Fuels on March 10th, the IEA Executive Director, Dr. Ulf Lantzke, stated that should a supply disruption develop the Executive Director may "decide to activate submission of Questionnaires A and B, consistent with procedures established for the Emergency Allocation System."

A. Am I correct that he can do so at his own initiative?
B. Am I not also correct that he can initiate submission of such questionnaires in the absence of belief that the 7 percent trigger is likely to be activated?
C. Does this not constitute an expansion of the use of the questionnaires beyond the point previously agreed to by the United States?

Answer: The December 10th Decision does not in any way empower the IEA to require the U.S. to take mandatory actions in a subtrigger situation. The Decision's provisions concerning activation of Questionnaires A and B (QA/B) do not expand the preexisting procedures, as is indicated by

Dr. Lantzke's reference to "procedures established for the Emergency Allocation System"; these procedures do not give the IEA the power to mandate U.S. subtrigger actions.

Under the preexisting established procedures, if there is evidence that a serious oil supply situation may be developing which could reach the 7 percent trigger level, the Secretariat, following consultations with IEA member governments, is authorized to request submission of QA/B. This is provided so that the IEA and its members can respond promptly and effectively if the 7 percent threshold is reached. Each member government will make its own decision as to how to respond to this request. Moreover, it should be noted that the QA is submitted directly by the Reporting Companies rather than by governments, and antitrust protection for such submittal by U.S. compahies is dependent upon issuance of an antitrust approval letter by the Secretary of Energy with the concurrence of the Attorney General. The Secretary of Energy has declined to issue an approval letter in the past in the absence of persuasive evidence of a potential market disturbance which might trigger the IEA system, and the companies have been unwilling to submit QA's without such an approval letter. Thus U.S. compliance with the Secretariat's request is discretionary, and based on an independent judgment as to the need for QAs/Bs.

Question 30: Moreover, the IEA Director states that "any measures which are agreed upon by the Governing Board will be applied on an IEA-wide basis, although the detailed methods of implementation will be decided by governments in accordance with national law and the IEP." This implies that in the sub-trigger situation the IEA Governing Board could decide to require action by the member states including the United States; and I recognize that the United States is a member of that Board. Nevertheless, could the United States be governed by a majority of that Board?

Answer: As the question recognizes, no sub-trigger obligation could be imposed on the United States without its consent. The United States Government would not feel obliged to comply with a sub-trigger decision taken without its consent.

Question 31: A. Conversely, if the answer to Question 30 is negative, is it true that no IEA country is under a binding obligation to agree to any action that the IEA Governing Board may choose to take in responding to the situation?

B. Does the U.S. effectively have a veto over any IEA sub-trigger decision made pursuant to the December 10 agreement?

Answer: A. Since Governing Board decisions on sub-trigger obligations must be taken unanimously, no IEA member may be bound to take steps with which it disagrees.

B. The United States and every other IEA member country effectively has such a veto.

Question 32: A. Does the antitrust defense contained in section 252 of EPCA extend to any actions that might be taken by oil companies in response to a sub-trigger shortage?

B. Do you know whether the oil companies would agree with your answer?

Answer: Essentially the same information is sought from the Departments of Energy, State and Justice pursuant to Question 49. We shall deal with both questions in responding to Question 49, in conjunction with the other agencies.

NATIONAL EMERGENCY SHARING ORGANIZATION

QUESTION 33a: Background materials indicate that each IEA participating country has its own National Emergency Sharing Organization, which is responsible for dealing with oil emergency matters within the country. It also acts as the liaison with the IEA if an oil allocation program is activated during an emergency.

Is it correct that the National Emergency Sharing Organization, or "NESO," simply consists of certain Federal officials at DOE and other Federal agencies who would have decision-making responsibilities if the IEA oil sharing program were triggered?

ANSWER: The NESO responsibility resides solely within the Department of Energy, althrough representatives of other Federal agencies may participate in the activities of the NESO.

QUESTION 33b: NESO is not now, and never will be a separate entity, isn't that correct?

If an emergency occurs and the IEA program is activated, is it your intention to include members of the Executive Manpower Reserves in the operations of NESO?

ANSWER: While the NESO Is not a separate entity at the present time, and there are no plans to change that arrangement, it is impossible to state categorically that it will "never" be a separate entity.

The question of the use of the Executive Reserve program in connection with the NESO is a matter which is currently under study. No decision has been made.

QUESTION 33c: In Mr. Vaughan's recent responses to written questions from the Interior Appropriations Subcommittee, he stated that DOE expects to have an interim NESO Management Plan by April 30, 1982. It that plan available now?

ANSWER: A draft NESO Management plan has been prepared, which probably will undergo substantial revision before it is finalized. However, we have provided with this answer a copy of that working draft, in order to give the Committee an opportunity to see at the earliest stages how the project is developing.

Attachment to Question #33c

INTERIM NATIONAL EMERGENCY SHARING ORGANIZATION (NESO) MANAGEMENT MANUAL

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The NESO Defined

The term "National Emergency Sharing Organization" was coined in the process of developing IEA Emergency Sharing System (ESS) procedures. It is used to denote that body within each IEA country responsible for, in general: (1) liaison with the IEA on matters of international oil allocation during an emergency; and (2) national oil emergency matters. This definition is provided in the IEA Emergency Management Manual (EMM) which is the fundamental guide to the operation of the ESS. Appendix A is a general overview of the ESS and its relationship to energy emergencies.

In the EMM it is acknowledged that the organization of NESOs will differ from country to country, reflecting different oil supply and political structures. On the other hand, the way this term is commonly used in IEA literature carries the implication that each IEA member will have a single entity responsible for all dealings with the IEA ESS and for exercising all oil emergency management authorities over that nation's citizenry and the oil companies which operate within its borders.

By Executive Order the Department of Energy (DOE) functions as the U.S. NESO and the ongoing missions of a number of DOE offices include duties which contribute either directly

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or indirectly, to meeting NESO responsibilities. However, the Departments of State, Justice and the Federal Trade Commission also contribute to the discharge of NESO responsibilities, and there are probably other Federal agencies which could be involved in this effort depending upon circumstances.

Organization of the U.S. NESO

The organization of the U.S. NESO is depicted in Figure 1. The NESO is described funtionally since it only exists as a "notion" which is overlayed on the DOE organization. Associated with each major function, however, is a DOE Office or other group (e.g. a Task Force) made up of DOE personnel which would execute that function. The staffs of the designated offices may have to be augmented by other DOE personnel to cope with the work load during an emergency.

Following Figure 1 are general descriptions of the identified functions. These descriptions are tied into specific activity descriptions which are in Appendix B.

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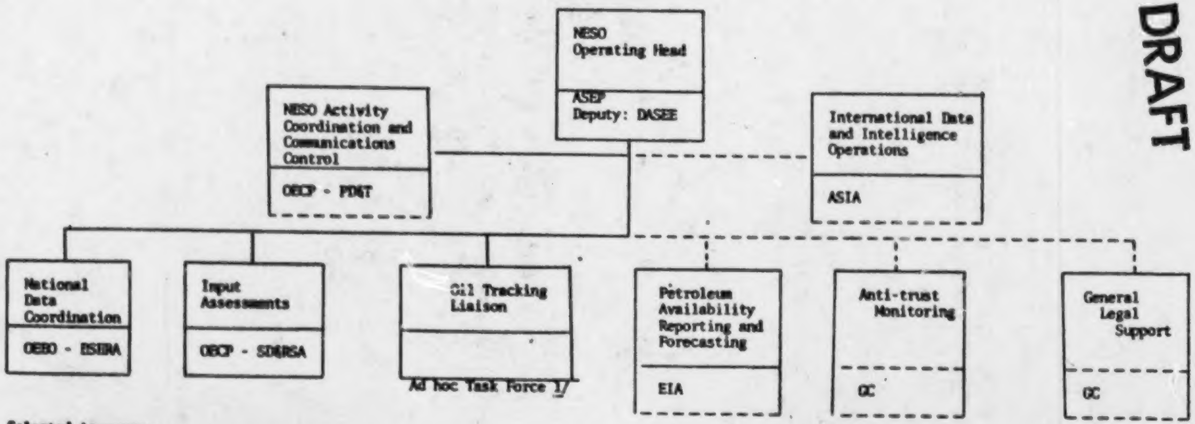
Figure 1

NESO FUNCTIONAL ORGANIZATION CHART


NESO Operating Head
ASEP
Deputy: DASEE
NESO Activity Coordination and Communications Control
OECP - PD&T
International Data and Intelligence Operations
ASIA
National Data Coordination
OEEO - ESERA
Input Assessments
OECP - SD&RSA
Oil Tracking Liaison
Ad hoc Task Force 1/
Petroleum Availability Reporting and Forecasting
EIA
Anti-trust Monitoring
GC
General Legal Support
GC

Selected Acronyms:
1) OEEO - Office of Energy Emergency Operations
2) OECP - Office of Energy Contingency Planning
3) ESERA - Energy Supply Evaluation and Risk Assessment Division
4) SD & RSA - Scenario Development and Response Strategy Analysis Division
5) PD & T - Plans Development and Testing Division

1/ Oil Tracking Liaison *ad hoc* task force will include persons of appropriate background drawn from both EP officer and from other DOE offices.

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Description of NESO Functions

- NESO Operating Head
    - in charge of all dat-to-day NESO activities
    - key contact between IEA and U.S. NESO with regard to operating procedures, data inputs, communications, and problems in connection with any of these
    - provides input regarding IEA sharing system policy issues to DOE Secretarial Officers
    - responsible for resolving in conformity with U.S.G. policy domestic oil trade problems in connection with the IEA emergency sharing system
- National Data Coordination
    - in charge of collecting, assembling and displaying information
        - quantitative/qualitative and statistical/ anecdotal -- regarding the supply and demand for petroleum and other energy sources
    - responsible for providing periodic reports on the State of the emergency in general or on specific aspects as required by the NESO Operating Head
- Impact Assessments
    - provides, on a continuing basis, forecasts of the probable impacts of petroleum supply disruptions (or other energy emergencies, as the case may be)
    - provides analyses and forecasts in connection with the development of the DOE position regarding activating or deactivating the IEA sharing system
    - provides analyses and reports regarding estimates of reduction in demand and other effects of price increases during an emergency
    - provides, as the data will allow, assessments of impacts of regional/local market tightening for use in guiding DOE remedial activities

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- Oil Trading Liaison
  - responsible for eliciting voluntary offers from U.S. oil companies to satisfy IEA Allocation Obligations--these activities will extend to all U.S. companies but particular emphasis will be directed to "Non-Reporting Companies"
  - responsible for administratively executing mandatory supply orders to U.S. oil companies
  - responsible for administering "fair-sharing" programs involving Government allocation of crude or petroleum productions
- NESO Activity Coordination and Communications Control
  - assists NESO Operating Head in the day-to-day NESO management activities
  - responsible for controlling all messages to and from the IEA regarding NESO activities
  - responsible for ensuring that IEA/NESO messages are directed to appropriate parties within the NESO
- Petroleum Availability Reporting and Forecasting
  - responsible for preparing both BAU and emergency questionnaires required by the IEA emergency sharing system
  - responsible for accumulating data and for developing executing forecasting techniques wich would be used in completing IEA questionnaires
  - provides supporting data and/or methods to assist in the assessment of interruption impacts

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- Anti-Trust Monitoring
  - responsible for all record keeping, meeting attendance, and like activities with regard to allowing U.S. oil companies a limited anti-trust defense so that they can participate in IEA emergency activities
  - responsible for developing and "maintaining" a Plan of Action and Voluntary Agreement which codify, respectively, the Government responsibilities for providing the limited anti-trust defense and the activities of the oil companies
- General Legal Support
  - provides necessary, legal back-up for implementing any Government actions in connection with carrying out NESO activities
  - responsible for drafting mandatory supply orders
- International Data and Intelligence Operations
  - responsible for providing data and intelligence to the NESO Operating Head to allow a timely and well executed response on the part of the NESO
  - provides international supply information to support analyses and forecasts of the effects of a disruption

Time Phasing of NESO Operations

The timing of the NESO activities are driven by the overall Emergency Sharing System Cycle. The following is an excerpt from the EMM describing the cycle. NESO Activities are those which are in the column labled "Participating Countries." Certain items have been added to this excerpt to be more disclosive of NESO activities.

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III. TABULATION OF EMERGENCY OPERATIONS

1. The following tabulation shows the sequence and frequency of activities in the Emergency Sharing Scheme. For ease of reference, it is divided into two discrete phases - activation/deactivation, allocation - although in practice there will be some overlap between phases (e.g. monthly trigger recalculations during the allocation phase).

2. Abbreviations used in the tabulation are as follows:

SECR = IEA Secretariat
IEA A. C. = IEA Allocation Co-ordinator
SEQ E. G. = SEQ Emergency Group
PC = Participating Country
Rep. Co. = Reporting Company
Qu. = Questionnaire

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FREQUENCY :

Activation – once
Deactivation – once
Trigger Calculation – monthly

Activity: ACTIVATION/DEACTIVATION

MANUAL REFERENCE	TIME INDICATOR	PARTICIPATING COUNTRIES	IEA HEADQUARTERS	REPORTING COMPANIES
A II.1	Undefined (several days up to several weeks)	- pass information to Secretariat	SECR - collect intelligence on potential emergency - consult with IAB - perform tentative trigger calculations	pass information to Secretariat
B I.1-5	day "D"		SECR - establish positive trigger situations (7 per cent or 12 per cent reduction of supplies)	
B I 7	D		- make finding - notify Management Committee	
B I.8	D		- notify PC contacts / Norway IEA Alloc. Coord. IAB	
		- initiate preparation of Qu.B	- request activation of: - SEQ Emergency Group - ISAG - Questionnaires A and B - headquarters service facilities	- initiate preparation of Qu. A
B I.8	D + 1		IAB - activate ISAG	
			- notify Reporting Companies	- re-arrange supply programmes
		- initiate demand restraint measures	SECR - communicate with PCs as to level of demand restraint	
B II	by 10th day of calendar month...			- submit Qu.A
	by 12th day	- submit Qu.B		
	15th day		SECR - perform monthly trigger calculation - advise IEA Alloc. Coord., SEQ Emergency Group, ISAG, IAB of continuation of crisis conditions	
	- - - - - -	- - - - - - -	- - repeated monthly until - - -	- - - - - - -
	day "X"		SECR - make positive deactivation finding	
			- advise as above	- discontinue Qu.A
	X + max. 2 months	- discontinue Qu.B		
	X + max. 3 months		IEA A.C SEQ E.G ISAG - discontinue activities	

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FREQUENCY : monthly

Activity : **ALLOCATION**
(after a general trigger finding)

MANUAL REFERENCE	TIME INDICATOR	PARTICIPATING COUNTRIES	IEA HEADQUARTERS	REPORTING COMPANIES
C II.4 (vi)a	Depending on timing of trigger (day "0") until arrival of first submissions of Qu. A and B		SECR - perform preliminary calculation of supply rights - advise ISAG and PCs of provisional supply rights and allocation rights/obligations IEA A C / ISAG - ad hoc measures on basis of provisional calculations	
C II.1-8	10th day			- submit Qu A
	12th day	- submit Qu.B		
C III.3	day "D" (3 days after arrival of Qu.B)		SECR - establish allocation rights and obligations and advise PCs	
C III.3 Step 1			- advise IEA A.C and ISAG of details of allocation calculation and of allocation rights and obligations	
- - -		- analyse product imbalance position - initiate local re-allocation plan		
	D + 1	- initiate solicitation of voluntary offers from non-reporting companies	SEQ E.G - receive and discuss review of situation prepared by IEA A.C	
C III.3 Step 2	D + 1		ISAG - advise Reporting Companies	
C III.3 Step 3	D + 5			- propose voluntary actions
C III.3 Step 4	D + 5 - D + 9		IEA A.C - liaise with PC(s) and evaluate with Secr. product aspects before selection of actions (see below) ISAG - evaluate Rep. Cos proposals	
	D + 9		IEA A C / ISAG - select proposals recommended for implementation ISAG - notify Rep. Cos of selected proposals and of further recommendations	
C III.2 Step 5	D + 11			- implement selected proposals and report to ISAG
C III.2 Step 6	D + 11		IEA A.C / ISAG - consult on further action with Rep. Cos if required ISAG - advise Rep. Cos of situation	
	D + 12		ISAG - advise IEA A.C of progress	

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Activity : ALLOCATION (contd.)

MANUAL REFERENCE	TIME INDICATOR	PARTICIPATING COUNTRIES	IEA HEADQUARTERS	REPORTING COMPANIES
IF NO FURTHER ACTION REQUIRED				
C III.3 Step 7	D + 12		ISAG - report to IEA A.C on state of completion of allocation IEA A.C - report to SEQ E.G SECR - advise PCs of IEA A.C's report	
- - -	D + 13	- finalise local re-allocation plan	SEQ E.G - discuss report and give guidance to IEA A.C as required	
Thereafter REPEAT MONTHLY CYCLE				
IF FURTHER ACTION REQUIRED				
C III.3 Step 8	D + 12		IEA A.C, ISAG - consult with IAB, develop further recommendations SEQ E.G - receive and review preliminary report by IEA A.C ISAG - notify Rep. Cos of further recommendations	
	D + 13			- notify ISAG of implementation of further recommendations or otherwise
IF DISCREPANCIES RESOLVED				
proceed as above for C III.3 Step 7, etc.				
IF DISCREPANCIES REMAIN				
C III.3 Step 9	D + 14		IEA A.C - inform SEQ Emergency Group and Rep. Cos of rejected recommendations ("discrepancies")	
				- comment on situation and evaluate extraordinary cost (if any) and report to SEQ E.G
			SEQ E.G - appraise situation and develop recommendations to PCs	
		- implement recommendation - report to SEQ E.G on success or failure		
			SEQ E.G - appraise situation, decide whether direct instructions by PCs are required	
	D + 20	- instruct oil companies — issue mandatory supply orders		- comply with instructions and report back to ISAG
			IEA A.C - report to SEQ E.G as before	
END OF CYCLE AS BEFORE				

APPENDIX A

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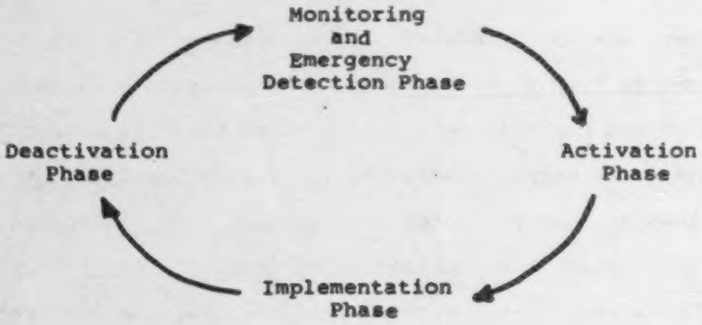
The IEA Emergency Sharing System

The Agreement on an International Energy Program (IEP) provides, inter alia, for the international sharing of oil during supply emergencies. Pursuant to this Agreement, the International Energy Agency (IEA) was established as an autonomous institution within the Organization for Economic Cooperation and Development (OECD) to carry out the principles of the Agreement including the operation on Emergency Sharing System (ESS). Following the principles set out in the IEP Agreement, IEA staff, representatives of IEA member governments and representatives of the oil companies which operate in IEA countries established a set of procedures governing ESS operations.

The operational framework of the ESS is typical of emergency response programs and can be illustrated by the following figure:


Monitoring and Emergency Detection Phase
Activation Phase
Implementation Phase
Deactivation Phase

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During the Monitoring and Emergency Phase, the IEA members assemble base line consumption information and intelligence data. The Implementation Phase is a cyclical process which is repeated every 30 days and consists of the following steps, described here at a very general level:

- Determine the Group Shortfall -- The amount of the shortage being experienced by the IEA Group is calculated comparing the Group's estimate of current and future supply to an historical base period.
- Determine the allowable supply for each member -- The amount of shortage each country should bear and, correspondingly, the supply availability each is entitled to is calculated according to the IEA sharing rules; these are referred to as the Supply Rights.
- Compare the supply position of each member with its allowable supply -- For each member calculate whether its Supply Right is more than or less than its national estimate of supply availability. If the Supply Right is greater than estimated availability, the difference is that nation's Allocation Right (AR). If the Supply Right is less than estimated availability, the difference is the nations' Allocation Obligation (AO). National

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A-3

governments and oil companies which participate directly with the IEA are notified of these ARs and AOs.

- Voluntary trading of oil to bring supply availability into line with allowable supply -- IEA members with an AO and the oil companies which operate within their borders work together so that the companies eventually offer crude oil or petroleum products voluntarily to the IEA with the object of reducing or eliminating their AO. IEA members with an AR and their oil companies make specific petroleum needs known with the object of satisfying their ARS. The IEA facilitates this process by supplying physical and other resources, and a structured, centralized means of carrying out these transactions.

- Mandatory Allocation -- IF AOs are not fully discharged -- and, therefore ARs remain -- national governments are to mandate the oil companies which operate with their borders to make the required offers. This step may not necessarily take place on a monthly basis. This will depend upon the size of the remaining AO and the prospect of it being eliminated as time passes by either regular business transactions or future IEA voluntary offers.

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The first step in the 30 day cycle is also part of the Activation and Deactivation Phases since the size of the group shortfall is the key quantitative variable considered in deciding to initiate or terminate the international sharing system.

In summary, the ESS is essentially an administrative process, the goal of which is to apportion petroleum among the IEA members according to the terms of the IEP Agreement. The fundamental guide to the operating procedures governing the ESS is the Emergency Management Manual (EMM).

APPENDIX B

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NESO Activities-Introduction

The general NESO responsibilities can be broken down into discrete activities which can be classified by function. These activities fall into four groups.

1. Primary activities which are necessary for the ESS Operating Cycle to function:

    - periodic submissions of national petroleum supply/supply disposition information - both historical data and forecasts
    - analyses to support U.S. position on triggering or deactivating ESS trigger
    - facilitating voluntary offers of petroleum from both reporting companies and non-reporting companies to fulfill a U.S. allocation obligation
    - facilitating the disposition of petroleum received from other IEA members to satisfy an allocation right
    - issuing of manditory supply orders, if required

2. Support activities which are necessary for the ESS Operating Cycle to function:

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- maintenance of adequate communication among the IEA, the U.S. Government, and petroleum companies (particular attention to be paid to Non-reporting companies)

- carryout required procedures in connection with providing the limited anti-trust defense for U.S. companies participating in the ESS.

3. Activities which directly affect international sharing but which are not necessary for the ESS Operating Cycle to function:

   - crude and/or product sharing systems to spread the effects of either voluntary or manditory transactions so that individual companies are not disproportionately affected

   - programs to reduce allowable imports to such levels that allocation obligations are eliminated or, at least, reduced to trivial amounts

4. All other energy emergency programs.

The relationship between the first two groups of activities and the ESS Operating Cycle is illustrated in Chart A; Activity Summaries for these first two groups follow the chart.

B-3

CHART A

RELATIONSHIP BETWEEN THE MARKET ENVIRONMENT, ESS OPERATIONS AND NESO ACTIVITIES

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Market Environment	IEA/ESS Operations	NESO Activities: re: ESS Operations
Business as usual	Monitor market; BPFC established	Provide national oil supply/supply disposition information - retrospective data - Questionnaire D - current estimates Questionnaire C - forecasts -
Market tightening to a point of interruption	Determination if tightening is such that a disruption is occurring	Analyses to support U.S. position re: - level of "shortage" - supporting activation of the ESS - continue to provide BAU information as described (above)
Disruption such that ESS has been activated	Determination of supply rights; allocation obligations and allocation rights Activate mechanism to match offers/acceptances re: AOs and ARs	Provide detailed national oil supply/supply disposition information for 2 past months, current month, 2 months future - Questionnaire B Contact U.S. oil companies to elicit voluntary offers - special emphasis on contacting Non-reporting companies Transmit Non-reporting company offers to the IEA Contact U.S. oil companies to facilitate placement of oil offered provided by other IEA nations Issue manditory supply orders to fulfill any unmet U.S. allocation obligation
Market Eases Below Point of Interruption	Same type of analysis as above re: market tightening	Return to BAU activity level and information reporting

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ACTIVITY SUMMARIES

Activity 1.1

Activity: Submit Actual U.S. Petroleum Supply/Supply Disposition Data to the IEA

DOE Offices - Lead/Supporting: EIA/None

Other U.S.G. Agencies Involved: None

Activity Description

Actual U.S. petroleum supply/supply disposition is reported by DOE/EIA on a month-by-month basis to the IEA conformity with IEA Questionnaire D (QD). Reports are submitted to Paris by Telex following the QD format; Summary worksheets are circulated to IA and EP.

IEA uses these figures to establish the U.S. Base Period Final Consumption (BPFC) and in its computation of the BPFC of the IEA as a whole.

These reports are based primarily on data collected by EIA as part of its ongoing mission and published in the Monthly Petroleum Statement (MPS). Typically, MPS data for a given month is not available until 2 months after the end of that month, and the corresponding report to the IEA is similarly lagged (i.e., the report for January is most likely submitted in March).

The MPS figures must be adjusted using data from other sources to alter the reporting universe from the "50 State basis" which is used by EIA to the "U.S. Custom's basis" which the IEA requires. These figures must also be manipulated to: (1) change petroleum product quantities into crude oil equivalents and (2) to convert barrels into tons.

[illegible]

Activity 1.2

Activity: Provide IEA with Quick Estimates and Forecasts of U.S. Petroleum Supply/Supply Disposition under BAU Conditions

DOE Offices - Lead/Supporting: EIA/None

Other U.S.G. Agencies Involved: None

Activity Description

Estimates/forecasts of the U.S. petroleum supply/supply disposition are reported by DOE/EIA to the IEA in conformity with IEA Questionnaire C (QC). Reports are submitted on a month-by-month basis; figures are provided for the current month, one month previous and one month in the future. These reports are submitted only under business-as-usual, non-emergency conditions. In an emergency, this reporting scheme is replaced by Questionnaire B (QB) which covers more months and is more detailed. Reports are submitted to Paris by Telex following the QC format.

IEA uses these figures along with other sources of information from the intelligence community to predict/detect supply disruptions.

These estimates and forecasts are developed from data collected by EIA as part of its ongoing mission by applying mathematical and macro and micro econometric techniques which have been developed by EIA for such purposes.

DRAFT

Information normally produced by EIA on a "50 State basis" must be adjusted to alter the reporting universe to the "U.S. Customs basis" which the IEA requires. These figures must also be manipulated to: (1) change petroleum product quantities into crude oil equivalents and (2) to convert barrels into tons.

DRAFT

Activity 1.3

Activity: Provide IEA with Quick Estimates and Forecasts of U.S. Petroleum Supply/Supply Disposition During Emergency Situations

DOE Offices - Lead/Supporting: EIA/None

Other U.S.G. Agencies Involved: None

Activity Description:

Upon the triggering of the IEA Emergency Sharing System estimates and forecasts of the U.S. petroleum supply/ supply disposition are reported by DOE/EIA to the IEA in conformity with EIA Questionnaire B (QB). Reports are submitted on a month-by-month basis and contain figures for the current month, one and two months previous, and one and two months in the future -- five months, in all. Reports are submitted to Paris by Telex following the QB format.

IEA uses these figures along with similar information from all IEA members in calculation of: (1) the loss of supply to the group; (2) members' supply rights; (3) members' allocation rights or obligations.

These reports parallel for the most part the Questionnaire As which each of the ________ U.S. Reporting Companies are obligated to submit to the IEA on a month-by-month basis when the Sharing System is triggered. Each company reports on Questionnaire A its own petroleum supply/

Activity 2.0

DRAFT

Activity: Analyses to Support U.S. Position Regarding IEA ESS Activation

DOE Offices - Lead/Supporting: DAS EE/EIA and IA

Other U.S.G. Agencies Involved: State, CIA

Activity Description

Perform situational analyses and economic impact analyses of the energy disruption or other crises as perceived. Since these perceptions will vary over time and the values associated with the analyses variable will also change, a number of iterations will be performed on a continuing basis.

Output will be a series of reports and option papers to be used in establishing the U.S. position regarding the necessity for and advisability of triggering the ESS. These same analyses would be used in connection with the overall risk assessment and economic forecasting which DOE/EE would be performing during an energy emergency. These reports are not envisioned as the only determining analyses with regard to the IEA, but as one of the group of analyses -- the others originating from other U.S. agencies such as State, DOE, etc.

Input will consist of business-as-usual petroleum usage and economic data for background purposes; estimates of the levels disruption; suppositions regarding elasticities for the U.S., for IEA countries, and for other nations; suppositions regarding private stock use strategies; etc.

supply disposition picture over the five month period. These estimates and forecasts are developed by using QA information, and data collected as part of its ongoing lmission and by applying mathematical and micro and macro econometric techniques to derive estimates for the U.S. as a whole.

Information normally produced by EIA on a "50 State basis" must be adjusted to alter the reporting universe to the "U.S. Customs basis" which the IEA requires. These figures must also be manipulated to: (1) change petroleum product quantities into crude oil equivalents and (2) to convert barrels into tons.

Activity 3.0

DRAFT

Activity: Facilitate Voluntary Offers

DOE Offices - Lead/Supporting: DAS EE/None

Other U.S.G. Agencies Involved: None

Activity Description

If the U.S. has an allocation obligation a "good faith effort" consistent with U.S. policy will be instituted to facilitate voluntary offers to be made by oil companies operating within U.S. borders. This will be accomplished primarily by using telecommunications systems (Telex, telephone, etc.) to poll companies and elicit offers. In particular, the U.S. Government will concentrate on Non-reporting companies, since reporting companies will already be in direct communication with the IEA.

Information regarding the volumes and types of offers required will be received from the IEA in Paris by Telex. The IEA will also keep the U.S. informed as offers are accepted and obligations are reduced.

Activity 4.0

Activity: Facilitate Distribution of Petroleum Offered in Satisfaction of a U.S. Supply Right

DOE Offices - Lead Supporting: DAS EE/None

Other U.S.G. Agencies Involved: None

DRAFT

Activity Description

To be supplied

Activity 5.0

Activity: Issue Supply Orders to Effect Mandatory Offers to the IEA by U.S. Companies

DOE Offices - Lead/Supporting: DAS EE/GC

Other U.S.G. Agencies Involved:

Activity Description

To be supplied

DRAFT

Activity 6.0

Activity: Facilitate Communication between the IEA, U.S.
Government and the U.S. Petroleum Industry

DOE Offices - Lead/Supporting: DAS EE/MA

Other U.S.G. Agencies Involved: None

Activity Description

This is a general support activity involving the design and installation of a (telecommunications system, including both hardware and operating procedures, to allow easy communications) between DOE and the IEA, DOE and the U.S. petroleum industry, and in support of other intergovernmental communications channels.

DRAFT

Activity 7.0

Activity: Carry Out Procedures Required to Provide Limited Anti-trust Defense for U.S. Companies Participating in the ESS

DOE Offices - Lead/Supporting: GC/EE

Other U.S.G. Agencies Involved: Justice, Treasury, and State

Activity Description

To be supplied

DRAFT

QUESTION 33d: Would NESO operate only if the IEA oil sharing program were triggered, or would it operate in responding to less severe shortages?

ANSWER: NESOs are established on a standby basis in the IEA members countries. The U.S. NESO would not become operational unless the IEA agreement were triggered, except for purposes of participating in Allocation System Tests.

QUESTION 33e: Can you give us some idea, now, about how broad NESO's responsibilities will be? For example, if the International Energy Program were activated, could NESO decide whether the SPR should be used to replace oil in transit that was destined for the U.S. but diverted to other countries?

ANSWER: Within the context of the IEA Emergency Sharing System, the NESO in each participating country is anticipated to have responsibility for:

o implementing national oil emergency matters; and

o liaison with the IEA on matters of international oil allocation during an emergency.

The IEA recognizes that the structure and role of NESOs will differ from country to country.

The objects of DOE's NESO management plan are: to identify the discrete operations implied in the general definition of NESO responsibilities; to associate these operations with specific Federal offices (some may not be DOE offices); to identify the flow of operations between offices in performing NESO duties; to suggest new or modified operating procedures, system flows, communications links to enhance performance; and to document these operations, responsibilities and systems. We have a working draft NESO Management Plan. The precise responsibilities of the NESO will not be established until approval of the NESO Management Plan is in its final form.

NATIONAL OIL BOARD

QUESTION 34a: Mr. Vaughan's testimony states that DOE is developing an operation plan for using the National Oil Board.

In background materials submitted to the Energy Committee, DOE stated that an in-house test of the operation plan for the National Oil Board will be conducted in August. How will the test be conducted?

ANSWER: The plans for conducting this test have not yet been developed. We will be happy to provide a copy to the Committee when it is available.

QUESTION 34b: How does DOE intend to coordinate the decisions and activities of the National Oil Board and the National Oil Sharing Organization in the event that both the NATO and IEA oil sharing programs are activated in response to a severe international oil emergency?

ANSWER: Since the NESO and the NOB are the same organization in terms of where the responsibility rests (i.e., within the Office of Energy Emergencies) coordination should not pose a problem.

PRIVATE STOCKPILES

QUESTION 35a: Mr. Vaughan's testimony before the House Subcommittee on Fossil and Synthetic Fuels on March 10, 1982, states that:

> "We are seeking to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives for private stockbuilding."

Subsequently, on March 31st his testimony before the Appropriations Committee, which you repeated today, stated that:

> "In addition to our commitment to the SPR, we want to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives for private stockbuilding."

In his response to questions for the record the Department stated:

> "We are identifying prospective options to be evaluated. These will likely include Federal financial incentives and those with little or no budgetary impact, including removing existing disincentives. We expect to complete this work by the end of June and shall be glad to share the list of options with you then.
>
> It should be emphasized that this project is a study -- there has been no decision by the Department to recommend any particular option, nor can it be assumed that any such recommendation will be forthcoming. The only point that has been decided is that these are important issues which DOE believes should be studied."

In other words "no decision has been made". Yet only this morning assistant Secretary Hormats expressed concern that:

> "The drawdown of private oil stocks in response to high interest rates and falling consumption (130 million barrels since the beginning of the year) is likely to end soon (although just how soon remains a matter of disagreement among forecasters) and will result in an increase in demand for crude supplies."

Later he added:

> "In sum, we must not allow short-term market developments to lull us into a false sense of security about supplies. We are becoming concerned that oil companies may be drawing their oil stocks down too far."

We therefore must ask:

What incentives do in fact now exist, if any?

ANSWER: This question is currently the subject of a DOE contractor study, due to be completed August 31, 1982. Of course, the main incentive is the assurance of no Federal price or allocation controls, which resulted from the veto of S. 1503. Another incentive is the knowledge that the Federal Government is going to refrain from interfering with the operation of the energy marketplace. Thus, users and others know that it will be their responsibility to maintain adequate stocks of fuel to meet their own needs.

QUESTION 35b: Where private stocks do exist, what protections of law now exist?

ANSWER: The question of whether there is a problem with respect to the current level of private stocks of petroleum is the subject of a contractor study scheduled to be completed August 31, 1982.

There is no existing statutory authority to control privately owned stocks. Of course, the principal protection of law resides in the U.S. Constitutional prohibitions against the taking of property without due process of law and adequate compensation.

QUESTION 35c: Under various State laws would it not be possible for a Governor to allocate such stocks away?

ANSWER: The Department of Energy has not conducted any study of the statutory authority of the 50 States with respect to allocation of private stocks, as such authority might exist at the present time. The Department would certainly discourage such allocations and, should they interfere with interstate commerce, it would seek Department of Justice action to prevent them.

QUESTION 35d: What is your response?

ANSWER: See response to question 35c above.

PUBLIC INFORMATION

QUESTION 36a: Mr. Vaughan's testimony before the House Subcommittee on Fossil and Synthetic Fuels on March 10th states that:

> In..... "developing a public information plan for use in energy emergencies ..... An important part of this effort is to encourage suppliers and consumers, as well as State and local governments, to develop their own contingency plans."

Subsequently, on March 10th and again here today he stated that:

> "We are developing a public information plan which will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs, and which will provide effective communications during a crisis."

In his response for the record you stated that:

> "Revisions to the draft Emergency Public Information Plan being developed by a DOE intra-agency Task Force will emphasize both the importance of State, industry, and consumer group involvement in Federal contingency planning and the requirement for free market preparation for energy emergencies."

He then added that:

> "Information exchanges between the Federal and State governments, and among States, local Governments, private organizations and industry groups, will be critical to an accurate assessment of the dimension, and duration of an energy shortage, and will better encourage precise remedial responses among these groups and the public. Serious informational lapses and inaccuracies undermined the ability of the Federal Government in past emergencies to adequately prompt and sustain public participation in undertaking remedial measures, and our Emergency Public Information Plan seeks to redress that situation."

While better public education is important, when do you expect to have the first official meetings with the States?

ANSWER: Representatives of the Department of Energy meet on a continual basis with representatives of the various States. In addition, we have met with representatives of the National Governors' Association, the National Association of Counties, the National Conference of State Legislatures, and others. A regular schedule of meetings is being drawn up by NGA.

QUESTION 36b: What evidence is there that the States will refrain from exercising their respective emergency powers?

ANSWER: See our response to question 2 above. In view of the fact that government intervention has proven in the past to create or exacerbate crises in the energy field, we certainly expect that the States would respect the lessons of history, and act accordingly.

QUESTION 36c: What do you propose to do if the States individually allocate or impose price controls?

ANSWER: See response to questions 2 and 35.c above.

QUESTION 36d: Would you support Federal preemption?

ANSWER: The Administration has no current plans to request legislation in this area. The prohibition of State responses by Federal preemption assures political pressure for a Federal solution to what may be only local problems. It results in Federal bureaucratic intervention occurring not as a last resort if State and local responses are insufficient, but as the only possible government response.

Federal preemption of State law prevents States from having any jurisdiction over the subject, so that even without a Federal program, States cannot even have standby programs, as was the case with S. 1503. This is very unusual. Normally, State law is only preempted when there is a conflict between the State and Federal programs so that both cannot co-exist. Under the EPAA this was the basis for preemption.

General Federal preemption of State law such as was involved in S. 1503, invariably raises many legal issues that usually result in litigation in the Federal courts. Even if there were never any emergency declared under S. 1503, numerous lawsuits would be brought if S. 1503 had been enacted into law, because it immediately would have invalidated a host of State laws. The Conference Report on S. 1503 illustrates some of these problems in its discussion of preemption, where the conferees indicated their intent that various State laws not be affected (even though the provisions of the bill itself read otherwise). See S. Rep. No. 97-313, 97th Cong. 2d Sess. 21-24 (1982). Such report language may influence courts when private parties bring suit, but it does not avoid the lawsuits in the first instance.

CLOSURE OF STATE ENERGY OFFICES

QUESTION 37: 1) One of the documents supplied to the Committee is a memo dated March 31, 1982 to Ron Winkler on "Emergency Public Information Program (EPIP): Meeting with National Governors' Association", which describes a meeting between W. Lorn Harvey (Program Manager of the Plans Development Program, Energy Contingency Planning) and staff from the National Governors' Association.

The memo suggests that the efforts to involve the States in the Emergency Public Information Program may be thwarted because Administration budget cuts are resulting in closures of State Energy Offices.

The memo says:

> "2. The State Energy Offices are undergoing considerable changes as the consequence of Administration emergency management and funding policies. Some, as in New Hampshire, are closing. Others are reducing personnel and assigning emergency functions to individuals (usually on the Governor's staff) as one of many assignments. Pressed for facts, however, the NGA could not produce them, so we have no precise sense of how radical or pervasive these changes are. It might be worth the effort (perhaps through the Liaison and Emergency Reserves Branch) to find out -- with certainty."

Have you found out what impact the President's budget will have on the State Energy Offices you intend to cooperate with?

ANSWER: The Department of Energy is conducting a review of this issue, and hopes to have some preliminary views within the next 30 days.

STRATEGIC PETROLEUM RESERVE

QUESTION 38a: Mr. Vaughan in your testimony you are strongly opposed to the requirement in Amendment 1354 to S. 2332 for submission of a new SPR Distribution Plan stating that:

> "The current SPR Distribution Plan, which became effective November 15, 1979, following Congressional review, provides the President with ample flexibility in using the SPR to respond to a severe energy supply emergency."

I note that you also opposed the SPR study requirement in the amendments to S. 2332.

I would point out that we are in agreement that there is a need for flexibility in the intended uses of oil from the Strategic Petroleum Reserve. However, the SPR is central to our energy emergency preparedness. Yet the alternative drawdown approaches for use of the SPR do not exist because they still are being defined. As your response to my earlier written question highlights:

> "The Department seeks constantly to assure that candidate emergency response options are evaluated regularly and carefully. Such evaluation permits us to incorporate options offering improvements into operating programs which we could implement in an emergency.
>
> In this context, there is a current study of SPR drawdown approaches underway. While we have not completed the plan for this study, the candidate alternative approaches will likely include, at a minimum, examination of the influence of various SPR drawdown strategies on the behavior of private inventories and the relative impact of SPR sale through a futures or option market.
>
> The workplan for this study will be completed by early June of this year. We would be happy to send you a copy at that time."

And we would like to see the results of that study. But it is precisely because of the work you have undertaken on the, first, the use of the SPR and, second, the distribution management plan, that the Congress is suggesting the need for its review.

Would you comment?

ANSWER: In fact, alternative DOE drawdown approaches do exist, and are set out in the current SPR Distribution Plan, which was reviewed by Congress and allowed to take effect in 1979.

These approaches include sales through price competition and allocation at an administratively determined market-level price. The Distribution Plan details the manner in which the various sale methods would be executed, and in implementation of these methods DOE has put in place Basic Sales Agreements with U.S. refiners, and adopted regulations. The fact that we intend to undertake further study of SPR drawdown surely ought not be construed as suggesting any inadequacy of the existing Distribution Plan. Moreover, it is important to distinguish between the Distribution Plan and work being done on management plans and mechanisms related to the mechanics of drawing down the SPR.

On the other hand, we recognize the concern of Congress and the public as to how the SPR might be used. For this reason, we have made available to the Committee a number of documents (see Item 14, Attachment A and Items 2 and 4, Attachment B, to Letter from R. Winkler to R. Grundy, dated April 26, 1982) illustrating the kinds of considerations currently being addressed, and we would certainly anticipate continuing to keep the Congress and the general public fully informed of the various possibilities being considered for use of the SPR, all of which fit within the overall aegis of the currently-effective SPR plan.

QUESTION 38b: How and on the basis of what criteria would the decision on the method of SPR use (i.e., auction, allocation, etc.) be made? What would be the ends which SPR use would attempt to serve?

ANSWER" The answer will depend on the details of a specific interruption, taking into account such factors as the depth of a shortfall and the extent to which the impact may be felt with special severity in a particular economic sector or geographical region. For example, a sale through price competition would be the most efficient method of selling SPR oil under most foreseeable circumstances, yet critical defense needs might necessitate allocation of oil to the Department of Defense at an administratively determined price.

As stated in the SPR Distribution Plan, the principal objective of drawing down the SPR ordinarily must be to inject oil into the marketplace at the desired rate, rather than to attempt to use it to achieve social objectives benefitting particular groups. However, a capability also must be retained to target SPR oil on unusally hard hit sectors or regions, should that prove necessary.

QUESTION 38c: Does the Administration contemplate the use of the SPR or other stocks subject to its control in order to moderate excessive price increases during an interruption?

ANSWER: The Energy Policy and Conservation Act permits the President to draw down the SPR only to deal with a "severe energy supply interruption", or if necessary to meet U.S. obligations under the Agreement on an International Energy Program. Of course, one effect of injecting SPR crude oil supplies into the marketplace should be to moderate price increases.

QUESTION 38d: Does the Administration envision using the SPR to compensate U.S. private companies under "fair sharing" if the IEA initiate the IEP? If so, what price will the companies pay for this oil?

ANSWER: The use of SPR oil to directly or indirectly compensate U.S. firms which supply oil internationally to satisfy U.S. obligations under the Agreement on an International Energy Program, is one option under study as a means of assuring fulfillment of any such obligations. A mechanism for accomplishing this now exists under the SPR's Distribution Plan, DOE's implementing regulations, and Basic Sales Agreements which are in being between DOE and U.S. refiners. The current Distribution Plan calls for the payment of market prices for SPR oil, regardless of whether the oil is sold competitively or at an administratively determined price, and we do not contemplate a departure from that policy.

QUESTION 38e: What considerations have been given to coordinating drawdown of SPR stocks with drawdown of those of the private sector?

ANSWER: The Department has no intention of interfering with the use of private stocks. When the SPR is used, it will be added to the general marketplace like any other source of oil, without interfering with the operations of the energy supply and distribution system.

QUESTION 38f: Will the Congress, in fact, receive an SPR drawdown plan and when? In its response to GAO's contingency planning report DOE indicated that it did not intend to draw up such a plan. DOE proposals now indicate an intent to do so. Has DOE changed its opinion or do they intend to study the options without developing a specific plan?

ANSWER: See response to Question 38a above.

QUESTION 39: Other than to meet the United States' obligations under IEA, are there energy emergency circumstances under which the Department of Energy would recommend to the President that we use the SPR? Admitting that we cannot foresee the nature of future emergencies, could you describe possible scenarios in which the SPR would be used?

ANSWER: The SPR is intended to be available in the event of any serious domestic or international situation which might cause severe energy supply disruptions. The Department of Energy is currently studying a range of possible situations which might suggest the need for use of the SPR. A workplan for this project is expected to be available in June 1982. Any event or series of events which creates a serious energy supply shortage, particularly if defense or national security energy requirements are jeopardized, could lead to use of the SPR.

QUESTION 40: Is there danger that changes in the pattern of U.S. consumption of petroleum products may alter our commercial distribution system and make distribution of SPR oil less efficient? If so, what are we planning to do about this problem?

ANSWER: The SPR's storage sites have been located along three of the Nation's major interstate common carrier pipeline complexes, with ready access to those pipelines, to marine terminals capable of loading oil onto tankers for ocean transport, and to nearby refineries having a significant processing capability. We are confident that this remains the most efficient location from which to distribute SPR oil, providing the maximum logistical flexibility. We continually reassess the validity of our distribution structure, and will remain alert to identifying any ramifications of changed patterns of petroleum consumption.

QUESTION 41: You told the Committee in answers to questions submitted for the record that the response to the RFP you issued on February 10, 1982, for worldwide surge storage of DOE crude oil "will provide some indicators of the types, quantities, and costs of private sector storage which would be offered for interim storage." What have you determined?

ANSWER: The process of negotiating Basic Ordering Agreements for surge storage has not yet been completed. However, we are able to say based on this procurement that there apparently are significant quantities of petroleum storage capacity available. The types and costs are generally in line with both our estimates and those of the General Accounting Office.

QUESTION 42: One of your objections to interim storage is the "possible displacement of private stocks." How can that be -- the interim storage proposal calls for storing oil sooner, not in greater quantity, than what the Administration proposes to do?

Do you disagree with Mr. Eck?

ANSWER: Assistant Secretary Vaughan noted in his May 6 statement that choosing to use non-permanent storage facilities increases certain program risks. It is possible to construct a scenario in which a rapidly expanding economy with petroleum consumption approaching previously experienced high demand levels, would require the maintenance of very high privately owned crude oil inventories. In this scenario some existing inventory storage capacity would not be available if it were under contract to the Government for SPR interim storage. DOE believes that prudent program management requires consideration of all such factors prior to making program decisions.

QUESTION 43: You also oppose the interim storage amendment because of the potential for fraud and theft. Aren't you capable of writing commercial contracts that will protect the Government's interest against fraud and theft?

You issued an RFP on February 10, 1982, seeking temporary surge storage (up to one year) in private facilities worldwide. Why didn't the fear of fraud and theft inhibit you from issuing that RFP which sought temporary storage capacity even in foreign places, such as Rotterdam?

ANSWER: The potential for fraud and theft is not a major issue in our opposition to the interim storage amendment. It was mentioned only in the context of the risk inherent in any transaction which involves a party or facility outside the established system. It is important to identify and quantify such risks prior to making reasoned program judgements.

DEPARTMENT OF STATE
Washington, D.C. 20520

MAY 10 1982

Dear Mr. Chairman:

I am pleased to attach Assistant Secretary Hormats' reply to the question posed by your Committee to him at its May 6 hearing on energy emergency preparedness.

With cordial regards,

Sincerely,

Powell A. Moore

Powell A. Moore
Assistant Secretary for
Congressional Relations

The Honorable
James A. McClure,
Chairman,
Committee on Energy and
Natural Resources,
United States Senate.

RESPONSE OF ROBERT D. HORMATS
ASSISTANT SECRETARY OF STATE
FOR ECONOMIC AND BUSINESS AFFAIRS
TO QUESTION POSED AT HEARING OF SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
MAY 6, 1982

44. On page 8 of your statement you avoid commenting on the amendments prepared to S. 2332 and say, "In our view, it is not in the national interest to allow legislation preserving that participation to become entangled in a debate over aspects of domestic energy policy."

a. What is your view of the Jackson amendment as related to filling the SPR more rapidly by using interim storage facilities?

b. Isn't our SPR fill policy related to what you are doing at the international level?

Response:

a. As I indicated in my testimony, the State Department defers to the Department of Energy on matters relating to the administration of the strategic petroleum reserve program.

At the same time, we strongly support development of the currently planned 750 million barrel SPR as a central element of our oil crisis preparedness strategy. The availability of large strategic stockpiles of oil would play a vital role in forestalling harmful effects of a major oil crisis.

If the stockpiling effort is to be fully effective, it is important that not only the United States, but also other oil-importing countries, acquire such stockpiles. The founders of the International Energy Agency recognized this fact and included as a condition of membership in the Agency the maintenance of oil stockpiles (public and private) equivalent to at least 90 days of the previous year's imports. Virtually all IEA members are currently in compliance with that requirement, and many have stockpiles substantially in excess of that level. Nevertheless, we continue to urge our IEA partners to increase their stockpiles of oil and, by continuing to fill the SPR at currently budgeted rates, demonstrate that we are contributing fully to this collective effort.

The Jackson amendment calls for an acceleration in the rate of fill of the SPR. In our view, a decision as to the SPR fill rate must balance our desire to have a full stockpile of oil available as soon as possible with the inevitable technical, economic, and budgetary constraints to achievement of that objective. This is a problem which all of our IEA partners share with us. Every one of them is today encountering difficulty in holding government expenditures under control. Hence, none has objected to the Administration's policy of filling the SPR as fast as permanent capacity is made available under current budgetary constraints. On the other hand, continued active development of the 750 million barrel SPR clearly acts as an incentive for our IEA partners to build their own stockpiles of petroleum.

b. See response to 44. a. above.

U.S. Department of Justice
Office of Legislative Affairs

Richard

Office of the Assistant Attorney General

Washington, D.C. 20530

MAY 18 1982

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCE
RECEIVED
MAY 18 1982
WASHINGTON, D.C. 20510

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On May 6, 1982, Ronald G. Carr, Deputy Assistant Attorney General, Antitrust Division, appeared before the Committee concerning S. 2332, a bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act from June 1, 1982 to July 1, 1983. Enclosed are responses to several questions the Committee has submitted to Mr. Carr.

The Office of Management and Budget has advised that there is no objection to the submission of these responses from the standpoint of the Administration's program.

Sincerely,

Robert A. McConnell
ROBERT A. McCONNELL
Assistant Attorney General
Office of Legislative Affairs

Enclosures

Responses To Questions 45-48 Received From The Senate Energy Committee Regarding S. 2332 Directed To Deputy Assistant Attorney General Ronald Carr. Also Attached Is A Joint Justice, State And Energy Response To Question 49 Which Was Directed To The Three Departments.

QUESTION 45. How many times in IEA's history have the U.S. reporting companies submitted Questionnaire A? Please provide the specifics (type of supply interruption, duration of the questionnaire submission) for the hearing record.

ANSWER: Section 5(b)(2) of the Voluntary Agreement, which governs participation by U.S. reporting companies in IEA activities, does not provide an antitrust defense for the submission of confidential and proprietary information by U.S. oil companies to the IEA Secretariat unless there is an express advance approval by the Department of Energy (DOE) with the concurrence of the Department of Justice (DOJ). DOE is required to consult with the Department of State before giving its approval while the DOJ must consult with the Federal Trade Commission prior to giving its concurrence. Submissions of Questionnaire A data by a U.S. reporting company would involve the disclosure of confidential and proprietary data to the Secretariat and such submissions require a U.S. Government clearance under Section 5(b)(2).

There have been two periods since the creation of the IEA in November 1974 when the U.S. Government has authorized United States reporting companies to submit Questionnaire A data to the IEA Secretariat. 1/

The first period was between November 1978 and June 1980 during a period of unsettled conditions in the international oil market in the aftermath of the Iranian Revolution. During that period the IEA Secretariat requested, and the U.S. Government granted, a series of short clearances for U.S. oil company participants in the Voluntary Agreement to disclose and discuss Questionnaire A data with the Secretariat. 2/

1/ Section 252(i) of the Energy Policy and Conservation Act requires the Attorney General to submit to the President and Congress periodic reports on the impact on competition and small business of actions authorized under Section 252. For a full and complete history of the clearances given for QA submissions to the IEA Secretariat see our: Fifth Report 30-39; Sixth Report 25-27; Seventh Report 35-39; Eighth Report 39-42; and Ninth Report 29-33.

2/ These clearances were limited to short periods (2 to 4 months) so that the continued need for QA submissions could be regularly examined.

These disclosures of confidential data and discussions of the oil market were held pursuant to Article 19.6 of the IEP which provides that the IEA Secretariat should consult with industry in determining whether to invoke a general or selective trigger of the IEA emergency oil sharing system. 3/

In February of 1980, the IEA Secretariat formally requested the Department of Energy, as Administrator of the U.S. Voluntary Agreement, to formally authorize U.S. reporting companies to submit QA data to the Secretariat through the end of 1980. The then current clearance was to have expired on March 31, 1980 and after due consideration was extended only for the month of April 1980. The IEA Secretariat was advised that further renewals of the clearance for QA submissions would not be warranted without a showing of an existing emergency or an oil shortfall requiring the consideration of imminent emergency action.

3/ Article 19.6 of the IEP provides that the Secretariat in making its finding that a reduction of oil supplies triggering the oil sharing system has occurred or can reasonably be expected to occur "shall consult with oil companies to obtain their views regarding the situation and the appropriateness of measures to be taken".

Although during April of 1980 the Department of Justice had tentatively concluded from its evaluation of the current oil market data that continued QA clearances could no longer be justified, it received from the IEA Secretariat in late April convincing information that Japan might soon face a relatively severe oil shortage and consequent selective trigger situation. This apparently arose as a result of Japan's decision to stop purchasing Iranian crude oil. It was then agreed to extend the clearance for QA submissions through June 30, 1980.

In late June, Justice was advised by DOE that the IEA would like a renewal of the clearance through the end of 1980. At that time the Department made an independent examination of the international oil market and concluded that the existing situation did not warrant a credible concern by the IEA that an oil crisis existed or was impending. The Department did not deny that there might be uncertainties in the oil market, but it noted that the IEP did not authorize the IEA to use QA data to make routine and ongoing appraisals of the general situation, thereby activating emergency-type measures for the collection of individual company supply data on the basis of mere uncertainties in the market. 4/ Accordingly, the Department indicated to DOE that we could not concur in a further extension of the clearance for QA submissions at that time. However, the Department did inform DOE and through them, the IEA Secretariat, that the Department would consider any additional information which tended to show that a supply emergency was impending. No additional information was presented and the then-existing clearance was allowed to lapse as of June 30, 1980.

A second period during which QA's were submitted to the Secretariat was between October 1980 and June 1981, in connection with the IEA's evaluation of the impact of the Iraqi-Iranian war on world oil supplies. The Department concurred

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4/ The IEP does contain separate provisions allowing the IEA to establish data collection systems for non-emergency monitoring of international oil developments. Such provisions allow the IEA to develop a system to monitor reduced national oil import goals adopted by IEA member countries to assist in reducing demand in the international oil market. Our attendance at meetings convinced us that one reason the Secretariat wanted to continue to collect QA data was to help it monitor whether countries were meeting their reduced import goals. We urged the Secretariat to develop other methods to monitor such goals rather than to use QA data, the collection of which had not been designed for that purpose.

in DOE's late September 1981 clearance request because of the significant risk of an emergency trigger caused by Iraq's and Iran's elimination of exports and the possibility that the hostilities could spread throughout the Persian Gulf. Although oil inventories were at an all-time high, that surplus could have been rapidly depleted if the conflict spread, particularly if it caused a blockage of the Strait of Hormuz. This new clearance was at first limited to the months of September and October 1980, but was extended through January 31, 1981, then March 15 and finally June 30, 1981.

On June 10, 1981, the IEA Secretariat requested that the United States Government extend the clearance for the submission of QA data because of the need to receive it for monitoring the international oil market until governments agreed on the new monitoring system for non-emergency periods that would not involve submissions of confidential and proprietary information by companies to the Secretariat. After interagency discussion, the United States advised the IEA Secretariat that in light of world oil market conditions, it had concluded that the approval for companies to submit QA data directly to the Secretariat should not be extended beyond June 30, 1981. The United States informed the Secretariat that it would continue to monitor the world oil situation and consider restoration of the clearance should conditions worsen.

Since July 1981 there have been no further efforts by the Secretariat to resume collection of QA data from U.S. companies. After the U.S. decision not to allow collection of proprietary data during non-emergency times, renewed efforts were made by the IEA Secretariat and governments to develop a non-emergency system that did not rely on direct company submissions to the Secretariat, and such a system was agreed upon in December 1981 and then activated in February 1982. (The QC system).

QUESTION 46. What happens if the IEA Secretariat wants to activate Questionnaire A? Do you have to issue any sort of antitrust clearance? How many times has the Department of Justice done so? Have they ever asked you to issue a clearance letter and you have refused?

ANSWER: If the IEA Secretariat wishes to have U.S. reporting companies submit Questionnaire A (QA) data it requests the Department of Energy, as the Administrator of the U.S. Voluntary Agreement and Plan of Action (Agreement), to authorize them to do so. The antitrust defense set forth in Section 252 of EPCA is limited to oil company activities authorized in developing or carrying out that Voluntary Agreement. Section 5(b)(2) of the Agreement states that confidential or proprietary information or data may be provided to the IEA Secretariat "only if the Administrator, after consultation with the Secretary of State, and with the concurrence of the Attorney General after consultation with the Federal Trade Commission, has approved in writing the exchange or provision of such types of information or data".

QA submissions are considered confidential and proprietary data and when DOE wishes to authorize companies to submit them to the IEA it requests in writing the written concurrence of the Department of Justice. If we concur, after consulting with the FTC, DOE issues a formal clearance letter to U.S. companies setting forth the conditions governing the data submission. For details on Departmental clearances for QA submissions, see the answer to question 45.

QUESTION 47. Last summer, the IEA convened some meetings to "consult" with the oil companies, including some U.S. companies, on possible subcrisis mechanisms. Did the Department of Justice issue any sort of clearance for the U.S. companies to participate?

ANSWER: The Voluntary Agreement governing participation by U.S. oil companies in the IEA does not require that the U.S. Government issue a clearance letter for each industry meeting. Prior notice of each meeting is published in the Federal Register and all meetings must be attended by a full-time U.S. Government employee. In practice, all industry meetings are monitored by either Justice or the FTC. Both agencies monitor the more important industry meetings.

Regarding the meetings held in July and October 1981, we note that on June 19, 1981, joint letters signed by the Chairman of the Governing Board and the Executive Director of the IEA were sent to members of the IEA's Industry Advisory Board inviting them to an in-depth consultation between IEA governments and oil companies. The focus was to be on ways of improving the ability of member governments to respond to supply disruptions that might produce heavy upward pressure on oil prices even though they would not trigger the full emergency oil allocation procedures. IEA Reporting Companies which were not then members of the IAB were invited to attend as observers with the right to participate in the discussions. Copies of the Secretariat's paper outlining proposals for sub-crisis measures were attached to the letter of invitation.

On June 30, 1981, Assistant Secretaries Hormats and Borre from the Departments of State and Energy, respectively, sent a joint letter to the Chief Executive Officers of U.S. companies which were listed as IEA Reporting Companies. It stated that the basic purpose of the consultation with the Governing Board was to "evaluate the adequacy of existing IEA information and emergency sharing measures to cope with problems which may arise in the years ahead." The letter also noted that the United States Government regarded participation by U.S. companies in the meeting as essential for clarifying issues for the Governing Board. It also stated that although the Department of Justice believed there was a serious question whether the antitrust defense contained in Section 252 of EPCA would be applicable with respect to the meeting, the Department had authorized Secretaries Hormats and Borre to advise the companies that the meeting would not pose antitrust problems if it stayed within the general parameters spelled out in the letter. 1/ These were that no proprietary of confidential information or data would be disclosed, no decisions would be made on the matters discussed, and oil company participants would not be asked to take any actions. The letter also advised recipient companies that there would be public notice of the meeting, that the Department of Justice would be present to monitor the meeting, and that the United States Government would make a full and complete record of the consultation.

1/ The Department of Justice view was based on the fact that Section 252 of EPCA provides an antitrust defense to companies for carrying out the allocation and information provisions of the International Energy Program (IEP) and there was a serious question whether some of the matters in the Secretariat's paper were within those provisions of the IEP. This Justice view did not mean there were antitrust problems with the meeting.

The meeting took place, as scheduled, on July 9-10, 1981. Government and industry representatives exchanged views on the Secretariat's papers. The Chairman of the Governing Board characterized the meeting as very useful and resulting in deepened understanding between governments and industry. While almost all companies stressed the free market as the best way to deal with sub-trigger oil shortfalls, not all national governments were convinced that allowing it to work freely would be the wisest policy in every case. The IEA governments agreed that the Secretariat would streamline its paper, and that another round of government/industry consultations would be held on October 7 in Paris.

On July 17, 1981, the Chairman of the IEA's Governing Board and the Executive Director of the IEA sent a joint letter to the Chief Executive Officers of the companies represented at the July consultation thanking them for their participation and formally inviting them to attend another such meeting on October 7, 1981. On September 22, 1981, the Assistant Secretaries of State and Energy sent another joint letter to U.S. Reporting Companies asking them to participate in the October 7, 1981 consultation and noting again that although the Department of Justice believed there was a serious question whether the antitrust defense contained in Section 252 of EPCA applied to the meeting, it had authorized the Departments of State and Energy to advise the companies that the meeting would not pose antitrust problems if it stayed within the agreed-upon parameters. 2/ At the October meeting, the companies restated their continuing belief in reliance on free market forces and their evaluation that IEA intervention in sub-crises situations could be counterproductive.

2/ These parameters are spelled out above in our discussion of the July consultation. The Department of Justice monitored the October consultation as well.

QUESTION 48. In your opinion, what types of activities could the oil companies participate in, under authority of Section 251 of EPCA, short of a 7 percent trigger being reached? Would the Department of Justice issue the necessary clearances for oil company participation -- with antitrust immunity -- for any type of activities short of reaching the trigger?

The two parts of this question are answered separately below.

ANSWER: (a) Section 251(a) of EPCA, 42 U.S.C. §6271(a), provides the President with authority to promulgate rules to require that persons engaged in producing, transporting, refining, distributing or storing petroleum products, take such action as the President determines are necessary for implementation of the obligations of the United States under Chapters III and IV of the International Energy Program (IEP) insofar as such obligations relate to the international allocation of petroleum products. The authority provided in this section is limited solely to promulgating regulations carrying out U.S. obligations under Chapters III and IV of the IEP. Chapter III of the IEP sets out the IEA's allocation formula, while Chapter IV sets out the method by which the "allocation of oil referred to in Chapter III, shall be activated. . . ." It is quite clear in Chapter IV of the IEP that the

Chapter III allocation system can only be activated when the IEA group of countries or an individual IEA country sustains a minimum 7 percent reduction in its oil supplies. 1/

Thus, we do not believe that Section 251 of EPCA provides any authority for the President to order oil companies to participate in sub-trigger oil sharing schemes. We also note that Section 251(b) of EPCA, 42 U.S.C. §6272(b), requires that any regulations issued by the President under Section 251(a) cannot take effect until he has transmitted such a rule to Congress along with a finding that the rule is required in order to "fulfill obligations of the United States under the international energy program."

To sum up, we note that oil companies could not, under Section 251 of EPCA, be ordered to participate in any oil sharing activities short of a 7 percent trigger.

1/ IEP Articles 13, 14 and 17.

ANSWER: (b) The second part of question 48 asks if the Department of Justice would issue clearances for oil company participants -- with antitrust immunity -- for any activities short of reaching the trigger. We presume this question refers to Section 252 and not 251 of EPCA for it is the former which provides the antitrust defense for U.S. oil companies to participate in developing and carrying out voluntary agreements and plans of action to "implement the allocation and information provisions of the international energy program." 2/

Since the antitrust defense in Section 252 of EPCA is limited to the allocation and information provisions of the IEP, we do not see how the defense can be extended to cover any allocation activities short of the seven percent trigger. As noted in response to questions 45 and 46 above, we do believe that Article 19.6 of the IEP does provide for oil companies to submit QA's to the Secretariat and to consult with the

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2/ 42 U.S.C. §6272(a)(1).

Secretariat during a "pending crisis" when the Secretariat is trying to determine whether to activate the IEA's emergency oil sharing system. Of course, under Section 5(b)(2) of the Voluntary Agreement, a clearance from the United States Government would be needed before an antitrust defense would attach to oil company submissions of QAs to the Secretariat or to any consultations in which the companies would furnish "confidential or proprietary information to the Secretariat" in impending crises situations before the trigger is pulled.

The Department of Justice would concur in a clearance for the QA submissions and consultations described in the preceeding paragraph. It would not concur in any clearances that attempted to extend the Section 252 antitrust defense to sub-trigger allocation schemes, as it has no legal authority to do so--since it is quite clear the defense can only be extended to the allocation system established by the IEP as it went into effect on November 18, 1974.

See the response to question 49 for a more detailed analysis of why the present Section 252 antitrust defense cannot be applicable to any oil company participation in any IEA sub-trigger allocation system.

THE FOLLOWING QUESTION WAS DIRECTED TO THE DEPARTMENTS OF STATE, JUSTICE AND ENERGY. THIS IS A COORDINATED RESPONSE FROM THE THREE DEPARTMENTS.

QUESTION 49: This question quotes from p. 8 of Deputy Assistant Attorney General Carr's testimony of May 6, 1982, in which he stated that "both industry and the United States Government had concluded that the antitrust defense in Section 252 was applicable only to the allocation and information provisions of the IEP Agreement and did not cover company actions to carry out 'subcrises' allocation schemes." It then asks for a coordinated State, Energy and Justice Department response to the following questions. This answer is submitted on behalf of the three Departments.

QUESTION 49a: As a matter of statutory construction, could the antitrust defense of Section 252 ever be construed to be applicable to any action by an oil company pursuant to the December 10, 1981 Agreement, other than submission of questionnaires A and B? Please provide the Committee with a thorough legal analysis to support your answer.

ANSWER: The antitrust defense conveyed by Section 252 of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. §6272, was specifically limited by Congress to cover actions taken to implement only the allocation and information provisions of the Agreement on an International Energy Program (IEP). The antitrust defense is applicable only to "actions taken to develop or carry out a voluntary agreement or plan of action" which is "required to implement the allocation and information provisions of the international energy program." 42 U.S.C. §6272(a)(1), (b), (f).

In approving EPCA, Congress also made clear that it was conferring the antitrust defense only upon activities in implementation of the allocation and information provisions of the IEP as originally signed by the United States in 1974, and not as it might be further amended. This is indicated in Section 3(7) of EPCA, which defines the IEP, as follows:

> The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (a) the annex entitled "Emergency Reserves", (b) any amendment to such Agreement which includes another nation

> as a party to such Agreement, and (c) any technical or clerical amendment to such Agreement. EPCA, Section 3(7).

The express inclusion in this definition of certain contemplated non-substantive amendments compels the conclusion that the exclusion of substantive amendments was intentional. Thus, under EPCA's terms, the antitrust defense applies to company actions implementing sub-crisis measures only if such actions are authorized by the original terms of the allocation and information provisions of the IEP.

The allocation and information provisions of the IEP are those provisions "which relate to international allocation of petroleum products and to the international system provided in such program." 42 U.S.C. §6272(1)(2). This includes Chapters III, IV and V (Articles 6-35) of the IEP. Chapters III and IV set forth the detailed IEA emergency sharing system, which provides for coordinated action allocating oil among countries and companies only in the event of a supply shortfall which reaches seven percent or more, with respect to an individual IEA country or for the IEP signatories collectively. Chapter V concerns the IEP information system.

Certain informational activities engaged in by the oil companies in response to an oil shortage which has not yet reached trigger proportions are within the scope of the IEP's allocation or information provisions, and therefore are entitled to the antitrust defense. Article 19.6 of the IEP Agreement provides that in making its trigger findings, the IEA Secretariat "shall consult with oil companies to obtain their views regarding the situation and the appropriateness of the measures to be taken." Thus, under Article 19.6, the activities must be directly related to the process of making a trigger finding. Under Article 19.6, this process is limited to consultations and data submissions.

Antitrust protection is extended to Article 19.6 activities through antitrust approval letters issued by the Secretary of the Department of Energy, with the concurrence of the Attorney General, under Section 5(b)(2) of the existing Voluntary Agreement and Plan of Action to Implement the IEP. It may be that to some extent the December 10 Decision contains elements that, upon analysis, are redundant with the allocation and information provisions of the IEP. But merely because previously permissible company consultations are conducted under the additional auspices of the December 10 Decision does not alter the fact that those consultations may also be covered by Section 252, to the extent such consultations are conducted pursuant to Article 19.6 of the IEP.

The foregoing analysis is consistent with the legislative history of the EPCA, which makes it very clear that the antitrust defense cannot be extended to new activities not within the allocation and information provisions of the IEP. In enacting EPCA, section 252 and its predecessor, section 708A of the Defense Production Act, 50 U.S.C. App. 2158a, Congress carefully circumscribed the antitrust defense out of concern that, otherwise, "the International Energy Program might be substantially altered" without a loss of antitrust protection, "contrary to the wishes and intent of the Congress." S. Rep. No. 94-353 on Defense Production Act Amendments of 1975, 94th Cong., 1st Sess. 16 (July 13, 1975). Thus, during action on the 1975 Defense Production Act Amendments, Senator Proxmire, as floor leader, recognized that because an international agreement "may be as fluid and subject to change as the international environment itself", it was important to make clear the legislative intent that antitrust protection wuld be provided "only for those cases and under those circumstances set forth in this bill", and could not be "expanded by executive action". 121 Cong. Rec. S15938 (September 15, 1975). He inserted in the record nearly identical letters from the Attorney General, the Secretary of State and the Federal Energy Administrator, all of which agreed that the scope of the antitrust defense could not be expanded by executive action. For example, the Justice Department advised:

> As to your second question, the scope of antitrust immunity cannot be expanded by executive action. As we read the immunity provisions in conjunction with the rest of section 708A, immunity is limited to approved actions under a voluntary agreement which are taken to develop or implement two programs under the Agreement of November 18, 1974, (1) the international allocation of petroleum during an emergency and (2) the information system provided in the Agreement. Immunity is not extended to actions pursuant to other present or future activities under the International Energy Agreement and cannot be extended by executive action. (121 Cong. Rec. S15939, Sept. 15, 1975.)

The same careful approach was taken during Congressional action leading to enactment of the EPCA. The bill originally proposed by the Ford Administration, S. 594, would have granted the antitrust defense pursuant to "voluntary agreements and programs to carry out the objectives of any international agreement dealing with the subject matter of section 1311", which provided for implementation of the obligations of the U.S. under the IEP. The bill reported by the Senate Committee on Interior and Insular Affairs, however, restricted the antitrust defense to actions to accomplish the objectives of the IEP "with respect to international petroleum allocation and the information system provided in such agreement." S. 622, 94th Cong., 1st Sess. §121 (1975). The Senate Committee Report stated that:

> At the request of the Administration and the Chairman of the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, the antitrust immunity authorized by this bill is limited to specified activities taken with respect to the international allocation of petroleum and the information system provided in the International Energy Agreement . . . . (S. Rep. No. 94-26, 94th Cong., 1st Sess. 43 (March 5, 1975).)

The bill reported by the House Committee on Interstate and Foreign Commerce, H.R. 7014, restricted the antitrust defense even further, limiting it to voluntary agreements to "implement the allocation and information provisions of" the IEP. In addition, it added a definition of "allocation and information provisions", identifying them as "the provisions of" the IEP "which relate to international allocation of petroleum products and the information system provided in such program". H.R. 7014, 94th Cong., 1st Sess. §212 (1975).

The Conference Report generally followed the House approach. S. Rep. No. 94-516, 94th Cong., 1st Sess. 144 (1975).

There are no specific provisions of the IEP, as signed by the United States in 1974, "which relate to international allocation of petroleum . . ." prior to activation of the IEA Emergency Sharing System. It follows, then, that no such allocation activities pursuant to an oil supply shortfall of less than seven percent can receive the antitrust defense provided for in section 252 of the EPCA. We believe that the U.S. Reporting Companies share this view.

QUESTION 49b: If the United States Government, pursuant to the December 10 Agreement were to agree at the IEA Governing Board to implement any so-called "measures to supplement market forces" as specified in the agreement to be applied on an IEA-wide basis, what would be the legal authorities of the Federal government under Section 251 and the antitrust defense immunities under Section 252 for any Federal orders to U.S. oil companies to implement such measures.

ANSWER: As this Administration has noted in its statement read at the December 10, 1981 Governing Board decision, "The United States remains committed to reliance on free market forces as the most effective response to supply disruptions." In addition, the United States delegation noted that the December 10th Governing Board decision, "does not commit IEA countries in advance to the specific actions which they might take in such circumstances." This Administration continues to firmly support those principles and intends that the market will be given an opportunity to work.

In any event, no legal authority exists for Presidential action under Section 251 of EPCA to implement "measures to supplement market forces" prior to activation of the IEP Emergency Sharing System on the basis of a 7 percent or greater shortfall.

The extent to which antitrust protection might be available has been discussed under Question 49a. It must be stressed, however, that any such protection could be accorded only if the activities in question were within the IEP's allocation and information provisions, strictly construed. As explained above, the fact that such actions might be taken pursuant to the December 10 decision, or in response to Government mandate, would not affect entitlement to the Section 252 antitrust defense.

QUESTION 49c: What is the intended legal significance of the clause in the December 10 Agreement stating "the detailed methods of implementation (of measures to supplement market forces) will be decided by governments in accordance with national law and the IEP"? What national law is intended to apply? What is the intended legal construction of "national law and the IEP"? Does the combination of national law and IEP mean that there is an incorporation of U.S. domestic legal authority in EPCA for the IEP under the subcrisis management agreement?

ANSWER: The intended legal significance of the clause in the December 10, 1981 decision by the Governing Board, to the effect that "detailed methods of implementation will be decided by governments in accordance with national law and the IEP," was to recognize, as we noted in our statement accompanying the decision, that "any actions taken in response to future disruptions must be consistent with national law and the agreement on an international energy program, and that this may vary from country to country."

The December 10, 1981 decision by the IEA Governing Board has no independent legal significance in authorizing activities pursuant to supply shortfalls below the seven percent level currently specified in the IEP. Any authorization for either governmental or company action in such situations must be found in existing legal authority. Sections 251 and 252 of EPCA only provide authority for carrying out certain provisions of the IEP as originally signed.

The absence of any independent legal authority authorizing governmental or company actions to supplement market forces in a sub-crisis situation means the United States Government cannot direct companies to take action in a sub-crisis situation. Thus, Section 251 provides no authority to order specific company actions nor can Section 252 be invoked to provide an antitrust defense for any new activities not within the allocation and information provisions of the IEP.